

ACTS

AND

RESOLVES

PASSED BY THE

General Court of Massachusetts,

IN THE YEARS

1858, '59:

TOGETHER WITH

THE CONSTITUTION, THE MESSAGES OF THE GOV-
ERNOR, LISTS OF THE CIVIL GOVERNMENT,
CHANGES OF NAMES,

ETC., ETC., ETC.

PUBLISHED BY THE

SECRETARY OF THE COMMONWEALTH.



BOSTON:

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1860.

A CONSTITUTION
OR
FORM OF GOVERNMENT
FOR THE
Commonwealth of Massachusetts.

PREAMBLE.

The end of the institution, maintenance and administration of government, is to secure the existence of the body politic; to protect it, and to furnish the individuals who compose it, with the power of enjoying, in safety and tranquillity, their natural rights, and the blessings of life: and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness.

Objects of government.

The body politic is formed by a voluntary association of individuals; it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation, and a faithful execution of them; that every man may, at all times, find his security in them.

Body politic, how formed.
Its nature.

We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the great Legislator of the universe, in affording us, in the course of his providence, an opportunity, deliberately and peaceably, without fraud, violence or surprise, of entering into an original, explicit and solemn compact with each other; and of form-

ing a new constitution of civil government for ourselves and posterity ; and devoutly imploring His direction in so interesting a design, do agree upon, ordain and establish, the following *Declaration of Rights and Frame of Government*, as the CONSTITUTION of the COMMONWEALTH OF MASSACHUSETTS.

PART THE FIRST.

A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts.

Equality and natural rights of all men.

ART. I. All men are born free and equal, and have certain natural, essential and unalienable rights ; among which may be reckoned the right of enjoying and defending their lives and liberties ; that of acquiring, possessing and protecting property ; in fine, that of seeking and obtaining their safety and happiness.

Right and duty of public religious worship.

II. It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the SUPREME BEING, the great Creator and Preserver of the universe. And no subject shall be hurt, molested or restrained, in his person, liberty or estate, for worshipping GOD in the manner and season most agreeable to the dictates of his own conscience ; or for his religious profession or sentiments ; provided he doth not disturb the public peace, or obstruct others in their religious worship.

Protection therein.

See amendments, Art. XI.

III. As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion and morality ; and as these cannot be generally diffused through a community, but by the institution of the public worship of GOD, and of public instructions in piety, religion and morality : Therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this Commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of GOD, and for the support and maintenance of public Protestant teachers of piety, religion

Legislature empowered to compel provision for public worship ;

and morality, in all cases where such provision shall not be made voluntarily.

And the people of this Commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

and to enjoin attendance thereon. See amendments, Art. XI.

Provided, notwithstanding, that the several towns, parishes, precincts and other bodies politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance.

Exclusive right of electing religious teachers secured.

And all moneys, paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instructions he attends; otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said moneys are raised.

Option as to whom parochial taxes may be paid, unless, &c.

And every denomination of Christians, demeaning themselves peaceably, and as good subjects of the Commonwealth, shall be equally under the protection of the law: and no subordination of any one sect or denomination to another shall ever be established by law.

See amendments, Art. XI.

All denominations equally protected.

Subordination of one sect to another prohibited.

IV. The people of this Commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign and independent State; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction and right, which is not, or may not hereafter, be by them expressly delegated to the United States of America, in Congress assembled.

Right of self-government secured.

V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive or judicial, are their substitutes and agents, and are at all times accountable to them.

Accountability of all officers, &c.

VI. No man, nor corporation or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver or judge, is absurd and unnatural.

Services rendered to the public being the only title to peculiar privileges, hereditary offices are absurd and unnatural.

Objects of government; right of people to institute and change it.

VII. Government is instituted for the common good ; for the protection, safety, prosperity and happiness of the people ; and not for the profit, honor or private interest of any one man, family or class of men : Therefore the people alone have an incontestable, unalienable and indefeasible right to institute government ; and to reform, alter or totally change the same, when their protection, safety, prosperity and happiness require it.

Right of people to secure rotation in office.

VIII. In order to prevent those who are vested with authority, from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life ; and to fill up vacant places by certain and regular elections and appointments.

All, having the qualifications prescribed, equally eligible to office.

IX. All elections ought to be free ; and all the inhabitants of this Commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments.

Right of protection and duty of contribution correlative.

X. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection ; to give his personal service, or an equivalent, when necessary : but no part of the property of any individual, can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this Commonwealth are not contrrollable by any other laws, than those to which their constitutional representative body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

Taxation founded on consent.

Private property not to be taken for public uses without, &c.

Remedies by recourse to the law, to be free, complete and prompt

XI. Every subject of the Commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property or character. He ought to obtain right and justice freely, and without being obliged to purchase it ; completely, and without any denial ; promptly, and without delay, conformably to the laws.

Prosecutions regulated.

XII. No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially and formally, described to him ; or be compelled to accuse, or furnish evidence against himself : and every subject shall have a right to produce all proofs that may be favorable to

him ; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel, at his election. And no subject shall be arrested, imprisoned, despoiled or deprived of his property, immunities or privileges, put out of the protection of the law, exiled or deprived of his life, liberty or estate, but by the judgment of his peers, or the law of the land.

And the legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

Right to trial by jury, in criminal cases, except, &c.

XIII. In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the greatest securities of the life, liberty and property of the citizen.

Crimes to be proved in the vicinity.

XIV. Every subject has a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation ; and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest or seizure : and no warrant ought to be issued but in cases, and with the formalities, prescribed by the laws.

Right of search and seizure regulated.

XV. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherways used and practised, the parties have a right to a trial by jury ; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners' wages, the legislature shall hereafter find it necessary to alter it.

Right to trial by jury sacred, except, &c.

XVI. The liberty of the press is essential to the security of freedom in a state : it ought not, therefore, to be restrained in this Commonwealth.

Liberty of the press.

XVII. The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature ; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

Right to keep and bear arms. Standing armies dangerous. Military power subordinate to civil.

XVIII. . A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people

Moral qualifications for office.

ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives: and they have a right to require of their lawgivers and magistrates, an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the Commonwealth.

Moral obligations of lawgivers and magistrates.

Right of people to instruct representatives and petition legislature.

XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

Power to suspend the laws or their execution.

XX. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for.

Freedom of debate, &c., and reason thereof.

XXI. The freedom of deliberation, speech and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

Frequent sessions, and objects thereof.

XXII. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening and confirming the laws, and for making new laws, as the common good may require.

Taxation founded on consent.

XXIII. No subsidy, charge, tax, impost or duties, ought to be established, fixed, laid or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the legislature.

Ex post facto laws prohibited.

XXIV. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive and inconsistent with the fundamental principles of a free government.

Legislature not to convict of treason, &c.

XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

Excessive bail or fines, and cruel punishments prohibited.

XXVI. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

No soldier to be quartered in any house, unless, &c.

XXVII. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

Citizens exempt from law-martial, unless, &c.

XXVIII. No person can in any case be subjected to law-martial, or to any penalties or pains, by virtue of that

law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well, and that they should have honorable salaries ascertained and established by standing laws.

Judges of supreme judicial court.

Tenure of their office.

Salaries.

XXX. In the government of this Commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: the executive shall never exercise the legislative and judicial powers, or either of them: the judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws, and not of men.

Separation of executive, judicial, and legislative departments.

PART THE SECOND.

The Frame of Government.

The people, inhabiting the territory formerly called the Province of Massachusetts Bay, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign and independent body politic or state, by the name of THE COMMONWEALTH OF MASSACHUSETTS.

Title of body politic.

CHAPTER I.

THE LEGISLATIVE POWER.

SECTION I.

The General Court.

ART. I. The department of legislation shall be formed by two branches, a Senate and House of Representatives; each of which shall have a negative on the other.

Legislative department.

See amendments,
Art. X.

The legislative body shall assemble every year, on the last Wednesday in May, and at such other times as they shall judge necessary ; and shall dissolve and be dissolved on the day next preceding the said last Wednesday in May ; and shall be styled, THE GENERAL COURT OF MASSACHUSETTS.

Governor's veto.

II. No bill or resolve of the senate or house of representatives shall become a law, and have force as such, until it shall have been laid before the governor for his revision ; and if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the senate or house of representatives, in whichsoever the same shall have originated, who shall enter the objections sent down by the governor, at large, on their records, and proceed to reconsider the said bill or resolve : but if, after such reconsideration, two-thirds of the said senate or house of representatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, shall have the force of a law : but in all such cases, the votes of both houses shall be determined by yeas and nays ; and the names of the persons voting for, or against, the said bill or resolve, shall be entered upon the public records of the Commonwealth.

Bill may be passed by two-thirds of each house, notwithstanding.

See amendments,
Art. I.

And in order to prevent unnecessary delays, if any bill or resolve shall not be returned by the governor within five days after it shall have been presented, the same shall have the force of a law.

General court may constitute judicatories, courts of record, &c.

III. The general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the Commonwealth, for the hearing, trying and determining of all manner of crimes, offences, pleas, processes, complaints, actions, matters, causes and things, whatsoever, arising or happening within the Commonwealth, or between or concerning persons inhabiting or residing, or brought within the same ; whether the same be criminal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal or mixed ; and for the awarding and making out of execution thereupon : to which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy, or depending before them.

Courts, &c., may administer oaths.

IV. And further, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain and establish, all manner of wholesome and reasonable orders, laws, statutes and ordinances, directions and instructions, either with penalties or without, so as the same be not repugnant or contrary to this constitution, as they shall judge to be for the good and welfare of this Commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws, for the naming and settling, all civil officers within the said Commonwealth, the election and constitution of whom are not hereafter in this form of government otherwise provided for; and to set forth the several duties, powers and limits, of the several civil and military officers of this Commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and to impose and levy proportional and reasonable assessments, rates and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said Commonwealth; and also to impose and levy reasonable duties and excises upon any produce, goods, wares, merchandise and commodities whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the governor of this Commonwealth for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of the said Commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

General court may enact laws, &c.,

not repugnant to the constitution;

may provide for the election or appointment of officers;

prescribe their duties;

impose taxes;

duties and excises;

to be disposed of for defence, protection, &c.

And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practiced, in order that such assessments may be made with equality, there shall be a valuation of estates within the Commonwealth, taken anew once in every ten years at least, and as much oftener as the general court shall order.

Valuation of estates once in ten years, at least, while, &c.

CHAPTER I.

SECTION II.

Senate.

Senate, number
of, and by whom
elected.

See amendments,
Arts. XIII. and
XVI.

ART. I. There shall be annually elected, by the freeholders and other inhabitants of this Commonwealth, qualified as in this constitution is provided, forty persons to be councillors and senators, for the year ensuing their election ; to be chosen by the inhabitants of the districts, into which the Commonwealth may from time to time be divided by the general court for that purpose : and the general court, in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts ; and timely make known, to the inhabitants of the Commonwealth, the limits of each district, and the number of councillors and senators to be chosen therein : provided, that the number of such districts shall never be less than thirteen ; and that no district be so large as to entitle the same to choose more than six senators.

Counties to be
districts, until,
&c.
See amendments,
Arts. XIII. and
XXII.

And the several counties in this Commonwealth shall, until the general court shall determine it necessary to alter the said districts, be districts for the choice of councillors and senators, (except that the counties of Dukes county and Nantucket shall form one district for that purpose,) and shall elect the following number for councillors and senators, viz. :—

Suffolk, ...	six.	York, ...	two.
Essex, ...	six.	Dukes Co. and Nantucket,	one.
Middlesex, ...	five.	Worcester, ...	five.
Hampshire, ...	four.	Cumberland, ...	one.
Plymouth, ...	three.	Lincoln, ...	one.
Barnstable, ...	one.	Berkshire, ...	two.
Bristol, ...	three.		

Manner and time
of choosing sena-
tors and council-
lors.

See amendments,
Arts. II., X., XIV.
and XV.

See amendments,
Arts. III. and
XX.

II. The senate shall be the first branch of the legisla-
ture ; and the senators shall be chosen in the following
manner, viz. : there shall be a meeting on the first Monday
in April, annually, forever, of the inhabitants of each town
in the several counties of this Commonwealth, to be called
by the selectmen, and warned in due course of law, at least
seven days before the first Monday in April, for the purpose
of electing persons to be senators and councillors ; and at
such meetings every male inhabitant of twenty-one years of
age and upwards, having a freehold estate, within the Com-

monwealth, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to give in his vote for the senators for the district of which he is an inhabitant. And to remove all doubts concerning the meaning of the word "inhabitant," in this constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office or place within this State, in that town, district or plantation, where he dwelleth or hath his home.

Word "inhabitant" defined.

The selectmen of the several towns shall preside at such meetings impartially, and shall receive the votes of all the inhabitants of such towns, present and qualified to vote for senators, and shall sort and count them in open town meeting, and in presence of the town clerk, who shall make a fair record, in presence of the selectmen, and in open town meeting, of the name of every person voted for, and of the number of votes against his name; and a fair copy of this record shall be attested by the selectmen and the town clerk, and shall be sealed up, directed to the secretary of the Commonwealth, for the time being, with a superscription expressing the purport of the contents thereof, and delivered by the town clerk of such towns, to the sheriff of the county in which such town lies, thirty days at least before the last Wednesday in May, annually; or it shall be delivered into the secretary's office seventeen days at least before the said last Wednesday in May: and the sheriff of each county shall deliver all such certificates, by him received, into the secretary's office, seventeen days before the said last Wednesday in May.

Selectmen to preside at town meetings.

Return of votes.

See amendments, Arts. II. and X.

And the inhabitants of plantations unincorporated, qualified as this constitution provides, who are or shall be empowered and required to assess taxes upon themselves toward the support of government, shall have the same privilege of voting for councillors and senators, in the plantations where they reside, as town inhabitants have in their respective towns; and the plantation meetings for that purpose shall be held, annually, on the same first Monday in April, at such place in the plantations, respectively, as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns, by this constitution. And all other persons living in places unincorporated, (qualified as aforesaid,) who shall be assessed to the support of government, by the assessors of an adjacent town, shall have the privilege of giving in their votes for councillors and senators, in the

Inhabitants of unincorporated plantations, who pay state taxes, may vote.

Plantation meetings.

See amendments, Art. X.

Assessors to notify, &c.

town where they shall be assessed, and be notified of the place of meeting, by the selectmen of the town where they shall be assessed, for that purpose, accordingly.

Governor and council to examine and count votes, and issue summonses.

See amendments, Art. X.

III. And that there may be a due convention of senators on the last Wednesday in May, annually, the governor, with five of the council, for the time being, shall, as soon as may be, examine the returned copies of such records; and fourteen days before the said day, he shall issue his summons to such persons as shall appear to be chosen by a majority of voters, to attend on that day, and take their seats accordingly: provided, nevertheless, that for the first year, the said returned copies shall be examined by the president and five of the council of the former constitution of government; and the said president shall, in like manner, issue his summons to the persons so elected, that they may take their seats as aforesaid.

Senate to be final judge of elections, &c., of its own members.

See amendments, Art. X.

IV. The senate shall be the final judge of the elections, returns and qualifications of their own members, as pointed out in the constitution; and shall, on the said last Wednesday in May, annually, determine and declare who are elected by each district to be senators, by a majority of votes: and in case there shall not appear to be the full number of senators returned, elected by a majority of votes, for any district, the deficiency shall be supplied in the following manner, viz.: The members of the house of representatives, and such senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in such district, and not elected, amounting to twice the number of senators wanting, if there be so many voted for; and out of these, shall elect by ballot a number of senators sufficient to fill up the vacancies in such district; and in this manner all such vacancies shall be filled up in every district of the Commonwealth; and in like manner all vacancies in the senate, arising by death, removal out of the State or otherwise, shall be supplied as soon as may be after such vacancies shall happen.

Qualifications of a senator.
See amendments, Art. XIII.

V. Provided, nevertheless, that no person shall be capable of being elected as a senator, who is not seized in his own right of a freehold, within this Commonwealth, of the value of three hundred pounds at least, or possessed of personal estate of the value of six hundred pounds at least, or of both to the amount of the same sum, and who has not been an inhabitant of this Commonwealth for the space of five years immediately preceding his election, and, at the time of his election, he shall be an inhabitant in the district for which he shall be chosen.

VI. The senate shall have power to adjourn themselves ; Senate not to adjourn more than two days.
provided such adjournments do not exceed two days at a time.

VII. The senate shall choose its own president, appoint Shall choose its officers and establish its rules.
its own officers, and determine its own rules of proceedings.

VIII. The senate shall be a court, with full authority to Shall try all impeachments.
hear and determine all impeachments made by the house of representatives, against any officer or officers of the Commonwealth, for misconduct and mal-administration in their offices : but, previous to the trial of every impeachment, the Oath.
members of the senate shall, respectively, be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not Limitation of sentence.
extend further than to removal from office, and disqualification to hold or enjoy any place of honor, trust or profit, under this Commonwealth : but the party so convicted shall be, nevertheless, liable to indictment, trial, judgment and punishment, according to the laws of the land.

IX. Not less than sixteen members of the senate, shall Quorum.
constitute a quorum for doing business.

CHAPTER I.

SECTION III.

House of Representatives.

ART. I. There shall be, in the legislature of this Commonwealth, a representation of the people, annually elected, Representation of the people.
and founded upon the principle of equality.

II. And in order to provide for a representation of the Representatives, by whom chosen. See amendments, Arts. XII., XIII. and XXI.
citizens of this Commonwealth, founded upon the principle of equality, every corporate town, containing one hundred and fifty ratable polls, may elect one representative ; every corporate town, containing three hundred and seventy-five ratable polls, may elect two representatives ; every corporate town, containing six hundred ratable polls, may elect three representatives ; and proceeding in that manner, making two hundred and twenty-five ratable polls the mean increasing number for every additional representative.

Provided, nevertheless, that each town now incorporated, Provido as to towns having less than 150 ratable polls.
not having one hundred and fifty ratable polls, may elect one representative ; but no place shall hereafter be incorporated with the privilege of electing a representative, unless there are within the same one hundred and fifty ratable polls.

Towns liable to
fine in case, &c.

And the house of representatives shall have power, from time to time, to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this constitution.

Expense of travelling to and from
the general court,
how paid.

The expenses of travelling to the general assembly, and returning home, once in every session, and no more, shall be paid by the government, out of the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the house, and does not depart without leave.

Qualifications of
a representative.
See amendments,
Arts. XIII. and
XIV.

III. Every member of the house of representatives shall be chosen by written votes; and, for one year at least next preceding his election, shall have been an inhabitant of, and have been seized in his own right of a freehold of the value of one hundred pounds, within the town he shall be chosen to represent, or any ratable estate to the value of two hundred pounds; and he shall cease to represent the said town, immediately on his ceasing to be qualified as aforesaid.

Qualifications of
a voter.

See amendments,
Arts. III. and
XX.

IV. Every male person, being twenty-one years of age, and resident in any particular town in this Commonwealth, for the space of one year next preceding, having a freehold estate within the same town, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to vote in the choice of a representative or representatives for the said town.

Representatives,
when chosen.
See amendments,
Arts. X. and XV.

V. The members of the house of representatives shall be chosen annually in the month of May, ten days at least before the last Wednesday of that month.

House alone can
impeach.

VI. The house of representatives shall be the grand inquest of this Commonwealth; and all impeachments made by them shall be heard and tried by the senate.

House to originate all money
bills.

VII. All money bills shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

Not to adjourn
more than two
days.

VIII. The house of representatives shall have power to adjourn themselves; provided such adjournment shall not exceed two days at a time.

Quorum.
See amendments,
Art. XXI.

IX. Not less than sixty members of the house of representatives shall constitute a quorum for doing business.

House to judge of
returns, &c., of
its own members;
to choose its officers
and establish its
rules, &c.
May punish for
certain offences.

X. The house of representatives shall be the judge of the returns, elections and qualifications of its own members, as pointed out in the constitution; shall choose their own speaker, appoint their own officers, and settle the rules and orders of proceeding in their own house. They shall have authority to punish by imprisonment, every person, not a member, who shall be guilty of disrespect to the house, by

any disorderly or contemptuous behavior in its presence ; or who, in the town where the general court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the house ; or who shall assault any of them therefor ; or who shall assault or arrest any witness, or other person, ordered to attend the house, in his way in going or returning ; or who shall rescue any person arrested by the order of the house.

And no member of the house of representatives shall be arrested, or held to bail on mean process, during his going unto, returning from, or his attending, the general assembly.

Privileges of members.

XI. The senate shall have the same powers in the like cases ; and the governor and council shall have the same authority to punish in like cases : provided, that no imprisonment, on the warrant or order of the governor, council, senate or house of representatives, for either of the above described offences, be for a term exceeding thirty days.

Governor and council may punish.

General limitation.

And the senate and house of representatives may try and determine all cases where their rights and privileges are concerned, and which, by the constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may, respectively, think best.

Trial may be by committee, or otherwise.

CHAPTER II.

EXECUTIVE POWER.

SECTION I.

Governor.

ART. I. There shall be a supreme executive magistrate, who shall be styled—THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS ; and whose title shall be—HIS EXCELLENCY.

Governor.

His title.

II. The governor shall be chosen annually ; and no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this Commonwealth for seven years next preceding ; and unless he shall, at the same time, be seized, in his own right, of a freehold, within the Commonwealth, of the value of one thousand pounds ; and unless he shall declare himself to be of the Christian religion.

To be chosen annually.
Qualifications.

See amendments,
Art. VII.

By whom chosen,
if he have a ma-
jority of votes.

See amendments,
Arts II., X., XIV.
and XV.

III. Those persons who shall be qualified to vote for senators and representatives, within the several towns of this Commonwealth, shall, at a meeting to be called for that purpose, on the first Monday of April, annually, give, in their votes for a governor, to the selectmen, who shall preside at such meetings; and the town clerk, in the presence and with the assistance of the selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the last Wednesday in May; and the sheriff shall transmit the same to the secretary's office, seventeen days at least before the said last Wednesday in May; or the selectmen may cause returns of the same to be made, to the office of the secretary of the Commonwealth, seventeen days, at least, before the said day; and the secretary shall lay the same before the senate and the house of representatives, on the last Wednesday in May, to be by them examined; and in case of an election by a majority of all the votes returned, the choice shall be by them declared and published; but if no person shall have a majority of votes, the house of representatives shall, by ballot, elect two out of four persons, who had the highest number of votes, if so many shall have been voted for; but, if otherwise, out of the number voted for; and make return to the senate of the two persons so elected; on which, the senate shall proceed, by ballot, to elect one, who shall be declared governor.

How chosen,
when no person
has a majority.

Power of govern-
or, and of gov-
ernor and coun-
cil.

IV. The governor shall have authority, from time to time, at his discretion, to assemble and call together the councillors of this Commonwealth for the time being; and the governor, with the said councillors, or five of them at least, shall, and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the Commonwealth, agreeably to the constitution and the laws of the land.

Same subject.

V. The governor, with advice of council, shall have full power and authority, during the session of the general court, to adjourn or prorogue the same to any time the two houses shall desire; and to dissolve the same on the day next preceding the last Wednesday in May; and, in the recess of the said court, to prorogue the same from time to time, not exceeding ninety days in any one recess; and to call it

See amendments,
Art. X.

together sooner than the time to which it may be adjourned or prorogued, if the welfare of the Commonwealth shall require the same; and in case of any infectious distemper prevailing in the place where the said court is next at any time to convene, or any other cause happening, whereby danger may arise to the health or lives of the members from their attendance, he may direct the session to be held at some other the most convenient place within the State.

And the governor shall dissolve the said general court on the day next preceding the last Wednesday in May.

See amendments.
Art. X.

VI. In cases of disagreement between the two houses, with regard to the necessity, expediency, or time of adjournment or prorogation, the governor, with advice of the council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days, as he shall determine the public good shall require.

Governor and council may adjourn the general court in cases, &c., but not exceeding ninety days.

VII. The governor of this Commonwealth, for the time being, shall be the commander-in-chief of the army and navy, and of all the military forces of the State, by sea and land; and shall have full power, by himself, or by any commander, or other officer or officers, from time to time, to train, instruct, exercise and govern the militia and navy; and, for the special defence and safety of the Commonwealth, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them, to encounter, repel, resist, expel and pursue, by force of arms, as well by sea as by land, within or without the limits of this Commonwealth, and also to kill, slay and destroy, if necessary, and conquer, by all fitting ways, enterprises and means whatsoever, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enterprise the destruction, invasion, detriment, or annoyance of this Commonwealth; and to use and exercise, over the army and navy, and over the militia in actual service, the law martial, in time of war or invasion, and also in time of rebellion, declared by the legislature to exist, as occasion shall necessarily require; and to take and surprise, by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition and other goods, as shall, in a hostile manner, invade or attempt the invading, conquering, or annoying this Commonwealth; and that the governor be intrusted with all these and other powers, incident to the offices of captain-general and commander-in-chief, and admiral, to be exercised agreeably to the rules and regulations of the constitution, and the laws of the land, and not otherwise.

Governor to be commander-in-chief.

Limitation.

Provided, that the said governor shall not, at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this Commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court; except so far as may be necessary to march or transport them by land or water, for the defence of such part of the State to which they cannot otherwise conveniently have access.

Governor and council may pardon offences, except, &c.

But not before conviction.

VIII. The power of pardoning offences, except such as persons may be convicted of before the senate, by an impeachment of the house, shall be in the governor, by and with the advice of council; but no charter of pardon, granted by the governor, with advice of the council, before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

All judicial officers, &c., how nominated and appointed. See amendments, Arts. XIV., XVII. and XIX.

IX. All judicial officers, the attorney-general, the solicitor-general, all sheriffs, coroners and registers of probate, shall be nominated and appointed by the governor, by and with the advice and consent of the council; and every such nomination shall be made by the governor, and made at least seven days prior to such appointment.

Militia officers, how elected.

See amendments, Art. V.

X. The captains and subalterns of the militia shall be elected by the written votes of the train-band and alarm list of their respective companies, of twenty-one years of age and upwards; the field officers of regiments shall be elected by the written votes of the captains and subalterns of their respective regiments; the brigadiers shall be elected, in like manner, by the field officers of their respective brigades; and such officers, so elected, shall be commissioned by the governor, who shall determine their rank.

How commissioned.

The legislature shall, by standing laws, direct the time and manner of convening the electors, and of collecting votes, and of certifying to the governor the officers elected.

Major generals, how appointed and commissioned.

The major-generals shall be appointed by the senate and house of representatives, each having a negative upon the other; and be commissioned by the governor.

Vacancies, how filled, in case, &c.

And if the electors of brigadiers, field officers, captains or subalterns, shall neglect or refuse to make such elections, after being duly notified, according to the laws for the time being, then the governor, with advice of council, shall appoint suitable persons to fill such offices.

Officers duly commissioned, how removed.

And no officer, duly commissioned to command in the militia, shall be removed from his office, but by the address

of both houses to the governor, or by fair trial in court martial, pursuant to the laws of the Commonwealth for the time being.

See amendments,
Art. IV.

The commanding officers of regiments shall appoint their adjutants and quartermasters; the brigadiers their brigade-majors; and the major-generals their aids; and the governor shall appoint the adjutant-general.

Adjutants, &c.,
how appointed.

The governor, with advice of council, shall appoint all officers of the continental army, whom by the confederation of the United States it is provided that this Commonwealth shall appoint,—as also all officers of forts and garrisons.

The divisions of the militia into brigades, regiments and companies, made in pursuance of the militia laws now in force, shall be considered as the proper divisions of the militia of this Commonwealth, until the same shall be altered in pursuance of some future law.

Organization of
militia.

XI. No moneys shall be issued out of the treasury of this Commonwealth and disposed of (except such sums as may be appropriated for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the governor for the time being, with the advice and consent of the council, for the necessary defence and support of the Commonwealth, and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

Money, how
drawn from the
treasury, except,
&c.

XII. All public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this Commonwealth, and all commanding officers of forts and garrisons within the same, shall, once in every three months, officially and without requisition, and at other times, when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small arms with their accoutrements, and of all other public property whatever under their care, respectively; distinguishing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of such forts and garrisons; and the said commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea, or harbor or harbors, adjacent.

All public boards,
&c., to make
quarterly returns

And the said boards, and all public officers, shall communicate to the governor, as soon as may be after receiving the same, all letters, dispatches and intelligences of a public nature, which shall be directed to them respectively.

Salary of governor.

XIII. As the public good requires that the governor should not be under the undue influence of any of the members of the general court, by a dependence on them for his support—that he should, in all cases, act with freedom for the benefit of the public—that he should not have his attention necessarily diverted from that object to his private concerns—and that he should maintain the dignity of the Commonwealth in the character of its chief magistrate—it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws: and it shall be among the first acts of the general court, after the commencement of this constitution, to establish such salary by law accordingly.

Salaries of justices of supreme judicial court.

Permanent and honorable salaries shall also be established by law for the justices of the supreme judicial court.

Salaries to be enlarged, if insufficient.

And if it shall be found, that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged, as the general court shall judge proper.

CHAPTER II.

SECTION II.

Lieutenant-Governor.

Lieutenant-governor; his title and qualifications.

ART. I. There shall be annually elected a lieutenant-governor of the Commonwealth of Massachusetts, whose title shall be—HIS HONOR; and who shall be qualified, in point of religion, property, and residence in the Commonwealth, in the same manner with the governor; and the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner; and if no one person shall be found to have a majority of all the votes returned, the vacancy shall be filled by the senate and house of representatives, in the same manner as the governor is to be elected, in case no one person shall have a majority of the votes of the people to be governor.

See amendments, Arts. III., VI., X. and XV.

How chosen.

President of council.

II. The governor, and in his absence the lieutenant-governor, shall be president of the council, but shall have no vote in council; and the lieutenant-governor shall always be a member of the council, except when the chair of the governor shall be vacant.

Lieutenant-governor a member of, except, &c.

III. Whenever the chair of the governor shall be vacant, by reason of his death, or absence from the Commonwealth, or otherwise, the lieutenant-governor, for the time being, shall, during such vacancy, perform all the duties incumbent upon the governor, and shall have and exercise all the powers and authorities, which, by this constitution, the governor is vested with, when personally present.

Lieutenant - governor to be acting governor, in case, &c.

CHAPTER II.

SECTION III.

Council, and the Manner of settling Elections by the Legislature.

ART. I. There shall be a council, for advising the governor in the executive part of the government, to consist of nine persons besides the lieutenant-governor, whom the governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together; and the governor, with the said councillors, or five of them at least, shall and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the Commonwealth, according to the laws of the land.

Council.

See amendments, Art. XVI.

II. Nine councillors shall be annually chosen from among the persons returned for councillors and senators, on the last Wednesday in May, by the joint ballot of the senators and representatives assembled in one room; and in case there shall not be found, upon the first choice, the whole number of nine persons who will accept a seat in the council, the deficiency shall be made up by the electors aforesaid from among the people at large; and the number of senators left, shall constitute the senate for the year. The seats of the persons thus elected from the senate, and accepting the trust, shall be vacated in the senate.

Number; from whom, and how chosen.

See amendments, Arts. X. XIII. and XVI.

If senators become councillors, their seats to be vacated.

III. The councillors, in the civil arrangements of the Commonwealth, shall have rank next after the lieutenant-governor.

Rank of councillors.

IV. Not more than two councillors shall be chosen out of any one district of this Commonwealth.

No district to have more than two.

V. The resolutions and advice of the council shall be recorded in a register, and signed by the members present; and this record may be called for, at any time, by either house of the legislature; and any member of the council

Register of council.

may insert his opinion, contrary to the resolution of the majority.

Council to exercise the power of governor, in case, &c.

VI. Whenever the office of the governor and lieutenant-governor shall be vacant, by reason of death, absence, or otherwise, then the council, or the major part of them, shall, during such vacancy, have full power and authority, to do and execute, all and every such acts, matters and things, as the governor or the lieutenant-governor might or could, by virtue of this constitution, do or execute, if they, or either of them, were personally present.

Elections may be adjourned until, &c.

VII. And whereas the elections appointed to be made by this constitution, on the last Wednesday in May annually, by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day, until the same shall be completed. And the order of elections shall be as follows: the vacancies in the senate, if any, shall first be filled up; the governor and lieutenant-governor shall then be elected, provided there should be no choice of them by the people; and afterwards the two houses shall proceed to the election of the council.

Order thereof.

CHAPTER II.

SECTION IV.

Secretary, Treasurer, Commissary, &c.

Secretary, &c.; by whom and how chosen. See amendments, Arts. IV. and XVII.

Treasurer ineligible for more than five successive years.

Secretary to keep records; to attend the governor and council, &c.

ART. I. The secretary, treasurer and receiver-general, and the commissary-general, notaries public and naval officers, shall be chosen annually, by joint ballot of the senators and representatives, in one room. And, that the citizens of this Commonwealth may be assured, from time to time, that the moneys remaining in the public treasury, upon the settlement and liquidation of the public accounts, are their property, no man shall be eligible as treasurer and receiver-general more than five years successively.

II. The records of the Commonwealth shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable; and he shall attend the governor and council, the senate and house of representatives, in person, or by his deputies, as they shall respectively require.

CHAPTER III.

JUDICIARY POWER.

ART. I. The tenure, that all commission officers shall by law have in their offices, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this constitution: provided, nevertheless, the governor, with consent of the council, may remove them upon the address of both houses of the legislature.

Tenure of all commissioned officers to be expressed. Judicial officers to hold office during good behavior, except, &c. But may be removed on address

II. Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the supreme judicial court, upon important questions of law, and upon solemn occasions.

Justices of supreme judicial court to give opinions when required.

III. In order that the people may not suffer from the long continuance in place of any justice of the peace, who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of justices of the peace shall expire and become void, in the term of seven years from their respective dates; and, upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well being of the Commonwealth.

Justices of the peace; tenure of their office.

IV. The judges of probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require; and the legislature shall, from time to time, hereafter, appoint such times and places; until which appointments, the said courts shall be holden at the times and places which the respective judges shall direct.

Provisions for holding probate courts.

V. All causes of marriage, divorce and alimony, and all appeals from the judges of probate, shall be heard and determined by the governor and council, until the legislature shall, by law, make other provision.

Provisions for determining causes of marriage, divorce, &c.

CHAPTER IV.

DELEGATES TO CONGRESS.

The delegates of this Commonwealth to the congress of the United States shall, some time in the month of June, annually, be elected by the joint ballot of the senate and

Delegates to congress.

house of representatives, assembled together in one room; to serve in congress for one year, to commence on the first Monday in November then next ensuing. They shall have commissions under the hand of the governor, and the great seal of the Commonwealth; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead.

CHAPTER V.

THE UNIVERSITY AT CAMBRIDGE, AND ENCOURAGEMENT OF LITERATURE, &C.

SECTION I.

The University.

Harvard College. ART. I. Whereas our wise and pious ancestors, so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard College, in which university many persons of great eminence have, by the blessing of GOD, been initiated in those arts and sciences which qualified them for public employments, both in church and state; and whereas the encouragement of arts and sciences, and all good literature, tends to the honor of GOD, the advantage of the Christian religion, and the great benefit of this, and the other United States of America,—it is declared, that the PRESIDENT AND FELLOWS OF HARVARD COLLEGE, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise and enjoy, all the powers, authorities, rights, liberties, privileges, immunities and franchises, which they now have, or are entitled to have, hold, use, exercise and enjoy; and the same are hereby ratified and confirmed unto them, the said president and fellows of Harvard College, and to their successors, and to their officers and servants, respectively, forever.

Powers, privileges, &c., of the president and fellows, confirmed.

II. And whereas there have been, at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies and conveyances, heretofore made, either to Harvard College in Cambridge, in New England, or to the president and fellows of Harvard College, or to the said college, by some other description, under several charters successively; it is declared, that all the said gifts, grants, devises, legacies and conveyances, are hereby forever confirmed unto the president and fellows of

All gifts, grants, &c., confirmed.

Harvard College, and to their successors, in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, deviser or devisors.

III. And whereas by an Act of the general court of the colony of Massachusetts Bay, passed in the year one thousand six hundred and forty-two, the governor and deputy-governor, for the time being, and all the magistrates of that jurisdiction, were, with the president, and a number of the clergy in the said act described, constituted the overseers of Harvard College; and it being necessary, in this new constitution of government, to ascertain who shall be deemed successors to the said governor, deputy-governor, and magistrates; it is declared, that the governor, lieutenant-governor, council and senate of this Commonwealth, are, and shall be deemed, their successors; who, with the president of Harvard College, for the time being, together with the ministers of the congregational churches in the towns of Cambridge, Watertown, Charlestown, Boston, Roxbury and Dorchester, mentioned in the said act, shall be, and hereby are, vested with all the powers and authority belonging, or in any way appertaining, to the overseers of Harvard College: provided, that nothing herein shall be construed to prevent the legislature of this Commonwealth from making such alterations in the government of the said university, as shall be conducive to its advantage, and the interest of the republic of letters, in as full a manner as might have been done by the legislature of the late Province of the Massachusetts Bay.

Who shall be overseers.

Power of alteration reserved to the legislature.

CHAPTER V.

SECTION II.

The Encouragement of Literature, &c.

Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this Commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools, and grammar schools

Duty of legislatures and magistrates in all future periods. See amendments, Art. XVIII.

in the towns ; to encourage private societies, and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country ; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings ; sincerity, good humor, and all social affections, and generous sentiments among the people.

CHAPTER VI.

OATHS AND SUBSCRIPTIONS ; INCOMPATIBILITY OF AND EXCLUSION FROM OFFICES ; PECUNIARY QUALIFICATIONS ; COMMISSIONS ; WRITS ; CONFIRMATION OF LAWS ; HABEAS CORPUS ; THE ENACTING STYLE ; CONTINUANCE OF OFFICERS ; PROVISION FOR A FUTURE REVISAL OF THE CONSTITUTION, &C.

ART. I. Any person chosen governor, lieutenant-governor, councillor, senator or representative, and accepting the trust, shall, before he proceed to execute the duties of his place or office, make and subscribe the following declaration, viz. :

See amendments,
Art. VII.

“ I, A. B., do declare, that I believe the Christian religion, and have a firm persuasion of its truth ; and that I am seized and possessed, in my own right, of the property required by the constitution, as one qualification for the office or place to which I am elected.”

And the governor, lieutenant-governor and councillors, shall make and subscribe the said declaration, in the presence of the two houses of assembly ; and the senators and representatives, first elected under this constitution, before the president and five of the council of the former constitution ; and forever afterwards, before the governor and council for the time being.

And every person, chosen to either of the places or offices aforesaid, as also any person appointed or commissioned to any judicial, executive, military or other office under the government, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following declaration, and oaths or affirmations, viz. :

See amendments,
Art. VI.

“ I, A. B., do truly and sincerely acknowledge, profess, testify and declare, that the Commonwealth of Massachu-

setts is, and of right ought to be, a free, sovereign and independent State; and I do swear, that I will bear true faith and allegiance to the said Commonwealth, and that I will defend the same against traitorous conspiracies and all hostile attempts whatsoever; and that I do renounce and abjure all allegiance, subjection and obedience to the king, queen or government of Great Britain, (as the case may be,) and every other foreign power whatsoever; and that no foreign prince, person, prelate, state or potentate, hath, or ought to have, any jurisdiction, superiority, pre-eminence, authority, dispensing or other power, in any matter, civil, ecclesiastical or spiritual, within this Commonwealth; except the authority and power which is or may be vested by their constituents in the congress of the United States: and I do further testify and declare, that no man, or body of men, hath, or can have, any right to absolve or discharge me from the obligation of this oath, declaration or affirmation; and that I do make this acknowledgment, profession, testimony, declaration, denial, renunciation and abjuration, heartily and truly, according to the common meaning and acceptation of the foregoing words, without any equivocation, mental evasion, or secret reservation whatsoever. So help me, GOD."

"I, A. B., do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as _____, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution, and the laws of the Commonwealth. So help me, GOD."

Provided, always, that when any person, chosen or appointed as aforesaid, shall be of the denomination of the people called Quakers, and shall decline taking the said oaths, he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words "*I do swear,*" "*and abjure,*" "*oath or,*" "*and abjuration,*" in the first oath; and in the second oath, the words "*swear and,*" and in each of them the words "*So help me, GOD;*" subjoining instead thereof, "*This I do under the pains and penalties of perjury.*"

And the said oaths or affirmations shall be taken and subscribed by the governor, lieutenant-governor and councillors, before the president of the senate, in the presence of the two houses of assembly; and by the senators and representatives first elected under this constitution, before the president and five of the council of the former constitution; and forever afterwards before the governor and council for

the time being; and by the residue of the officers aforesaid, before such persons, and in such manner, as from time to time shall be prescribed by the legislature.

Plurality of offices prohibited to governor, &c., except, &c.

II. No governor, lieutenant-governor, or judge of the supreme judicial court, shall hold any other office or place, under the authority of this Commonwealth, except such as by this constitution they are admitted to hold, saving that the judges of the said court may hold the offices of justices of the peace through the State; nor shall they hold any other place or office, or receive any pension or salary from any other State, or government or power, whatever.

Same subject.

No person shall be capable of holding or exercising at the same time, within this State, more than one of the following offices, viz.: judge of probate—sheriff—register of probate—or register of deeds; and never more than any two offices, which are to be held by appointment of the governor, or the governor and council, or the senate, or the house of representatives, or by the election of the people of the State at large, or of the people of any county, military offices, and the offices of justices of the peace excepted, shall be held by one person.

Incompatible offices.

See amendments, Art. VIII.

No person holding the office of judge of the supreme judicial court—secretary—attorney-general—solicitor-general—treasurer or receiver-general—judge of probate—commissary-general—president, professor, or instructor of Harvard College—sheriff—clerk of the house of representatives—register of probate—register of deeds—clerk of the supreme judicial court—clerk of the inferior court of common pleas—or officer of the customs, including in this description naval officers—shall at the same time have a seat in the senate or house of representatives; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the senate or house of representatives; and the place so vacated shall be filled up.

Same subject.

And the same rule shall take place in case any judge of the said supreme judicial court, or judge of probate, shall accept a seat in council; or any councillor shall accept of either of those offices or places.

Bribery, &c., operates disqualification.

And no person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under the government of this Commonwealth, who shall, in the due course of law, have been convicted of bribery or corruption, in obtaining an election or appointment.

Value of money ascertained. Property qualifications may be increased.

III. In all cases, where sums of money are mentioned in this constitution, the value thereof shall be computed in silver, at six shillings and eight pence per ounce; and it

shall be in the power of the legislature, from time to time, to increase such qualifications, as to property, of the persons to be elected to offices, as the circumstances of the Commonwealth shall require.

IV. All commissions shall be in the name of the Commonwealth of Massachusetts, signed by the governor, and attested by the secretary or his deputy, and have the great seal of the Commonwealth affixed thereto.

Provisions respecting commissions.

V. All writs, issuing out of the clerk's office in any of the courts of law, shall be in the name of the Commonwealth of Massachusetts; they shall be under the seal of the court from whence they issue; they shall bear test of the first justice of the court to which they shall be returnable, who is not a party, and be signed by the clerk of such court.

Provisions respecting writs.

VI. All the laws, which have heretofore been adopted used and approved, in the Province, Colony or State of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature; such parts only excepted as are repugnant to the rights and liberties contained in this constitution.

Continuation of former laws, except, &c.

VII. The privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this Commonwealth, in the most free, easy, cheap, expeditious and ample manner; and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months.

Benefit of habeas corpus secured, except, &c.

VIII. The enacting style, in making and passing all acts, statutes and laws, shall be—"Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same."

The enacting style.

IX. To the end there may be no failure of justice, or danger arise to the Commonwealth, from a change of the form of government, all officers, civil and military, holding commissions under the government and people of Massachusetts Bay, in New England, and all other officers of the said government and people, at the time this constitution shall take effect, shall have, hold, use, exercise and enjoy all the powers and authority to them granted or committed, until other persons shall be appointed in their stead; and all courts of law shall proceed in the execution of the business of their respective departments; and all the executive and legislative officers, bodies and powers, shall continue in full force, in the enjoyment and exercise of all their trusts, employments and authority, until the general court, and the

Officers of former government continued until, &c.

supreme and executive officers under this constitution, are designated and invested with their respective trusts, powers and authority.

Provision for revising constitution.

X. In order the more effectually to adhere to the principles of the constitution, and to correct those violations which by any means may be made therein, as well as to form such alterations as from experience shall be found necessary, the general court, which shall be in the year of our Lord one thousand seven hundred and ninety-five, shall issue precepts to the selectmen of the several towns, and to the assessors of the unincorporated plantations, directing them to convene the qualified voters of their respective towns and plantations, for the purpose of collecting their sentiments on the necessity or expediency of revising the constitution, in order to amendments.

Same subject.

And if it shall appear, by the returns made, that two-thirds of the qualified voters throughout the State, who shall assemble and vote in consequence of the said precepts, are in favor of such revision or amendment, the general court shall issue precepts, or direct them to be issued from the secretary's office, to the several towns, to elect delegates to meet in convention for the purpose aforesaid.

The said delegates to be chosen in the same manner and proportion as their representatives in the second branch of the legislature are by this constitution to be chosen.

Provision for preserving and publishing this constitution.

XI. This form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land; and printed copies thereof shall be prefixed to the book containing the laws of this Commonwealth, in all future editions of the said laws.

ARTICLES OF AMENDMENT.

Bill, &c., not approved within five days, not to become a law, if legislature adjourn in the mean time.

ART. I. If any bill or resolve shall be objected to, and not approved by the governor; and if the general court shall adjourn within five days after the same shall have been laid before the governor for his approbation, and thereby prevent his returning it, with his objections, as provided by the constitution, such bill or resolve shall not become a law, nor have force as such.

ART. II. The general court shall have full power and authority to erect and constitute municipal or city governments, in any corporate town or towns in this Commonwealth, and to grant to the inhabitants thereof such powers, privileges and immunities, not repugnant to the constitution, as the general court shall deem necessary or expedient for the regulation and government thereof, and to prescribe the manner of calling and holding public meetings of the inhabitants in wards or otherwise, for the election of officers under the constitution, and the manner of returning the votes given at such meetings: provided, that no such government shall be erected or constituted in any town not containing twelve thousand inhabitants; nor unless it be with the consent, and on the application, of a majority of the inhabitants of such town, present and voting thereon, pursuant to a vote at a meeting duly warned and holden for that purpose; and provided, also, that all by-laws, made by such municipal or city government, shall be subject, at all times, to be annulled by the general court.

General court empowered to charter cities.

Proviso.

ART. III. Every male citizen of twenty-one years of age and upwards, (excepting paupers and persons under guardianship,) who shall have resided within the Commonwealth one year, and within the town or district, in which he may claim a right to vote, six calendar months next preceding any election of governor, lieutenant-governor, senators or representatives, and who shall have paid, by himself or his parent, master or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district of this Commonwealth; and also, every citizen who shall be by law exempted from taxation, and who shall be in all other respects qualified as above mentioned, shall have a right to vote in such election of governor, lieutenant-governor, senators and representatives; and no other person shall be entitled to vote in such elections.

Qualifications of voters for governor, lieutenant-governor, senators and representatives. 11 Pick. 538. See amendments, Art. XX.

ART. IV. Notaries public shall be appointed by the governor, in the same manner as judicial officers are appointed, and shall hold their offices during seven years, unless sooner removed by the governor, with the consent of the council, upon the address of both houses of the legislature.

Notaries public, how appointed and removed.

In case the office of secretary or treasurer of the Commonwealth shall become vacant from any cause, during the recess of the general court, the governor, with the advice and consent of the council, shall nominate and appoint,

Vacancies in the offices of secretary and treasurer, how filled in case, &c. See amendments, Art. XVII.

under such regulations as may be prescribed by law, a competent and suitable person to such vacant office, who shall hold the same until a successor shall be appointed by the general court.

Commissary-general may be appointed, in case, &c.

Whenever the exigencies of the Commonwealth shall require the appointment of a commissary-general, he shall be nominated, appointed and commissioned, in such manner as the legislature may, by law, prescribe.

Militia officers, how removed.

All officers commissioned to command in the militia, may be removed from office in such manner as the legislature may, by law, prescribe.

Who may vote for captains and subalterns.

ART. V. In the elections of captains and subalterns of the militia, all the members of their respective companies, as well those under, as those above the age of twenty-one years, shall have a right to vote.

Oath to be taken by all officers;

ART. VI. Instead of the oath of allegiance prescribed by the constitution, the following oath shall be taken and subscribed by every person chosen or appointed to any office, civil or military, under the government of this Commonwealth, before he shall enter on the duties of his office, to wit:—

“I, A. B., do solemnly swear, that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the constitution thereof. So help me, GOD.”

or affirmation in case, &c.

Provided, That when any person shall be of the denomination called Quakers, and shall decline taking said oath, he shall make his affirmation in the foregoing form, omitting the word “swear,” and inserting, instead thereof, the word “affirm,” and omitting the words “So help me, God,” and subjoining, instead thereof, the words “This I do under the pains and penalties of perjury.”

Tests abolished.

ART. VII. No oath, declaration or subscription, excepting the oath prescribed in the preceding article, and the oath of office, shall be required of the governor, lieutenant-governor, councillors, senators or representatives, to qualify them to perform the duties of their respective offices.

Incompatibility of offices.

ART. VIII. No judge of any court of this Commonwealth, (except the court of sessions,) and no person holding any office under the authority of the United States, (postmasters excepted,) shall, at the same time, hold the office of governor, lieutenant-governor or councillor, or have a seat in the senate or house of representatives of this Commonwealth;

and no judge of any court in this Commonwealth, (except the court of sessions,) nor the attorney-general, solicitor-general, county-attorney, clerk of any court, sheriff, treasurer and receiver-general, register of probate, nor register of deeds, shall continue to hold his said office after being elected a member of the Congress of the United States, and accepting that trust; but the acceptance of such trust, by any of the officers aforesaid, shall be deemed and taken to be a resignation of his said office; and judges of the courts of common pleas shall hold no other office under the government of this Commonwealth, the office of justice of the peace and militia offices excepted.

ART. IX. If, at any time hereafter, any specific and particular amendment or amendments to the constitution be proposed in the general court, and agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, such proposed amendment or amendments shall be entered on the journals of the two houses, with the yeas and nays taken thereon, referred to the general court then next to be chosen, and shall be published; and if, in the general court next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, then it shall be the duty of the general court to submit such proposed amendment or amendments to the people; and if they shall be approved and ratified by a majority of the qualified voters, voting thereon, at meetings legally warned and holden for that purpose, they shall become part of the constitution of this Commonwealth.

Amendments to constitution, how made.

ART. X. The political year shall begin on the first Wednesday of January, instead of the last Wednesday of May; and the general court shall assemble every year on the said first Wednesday of January, and shall proceed, at that session, to make all the elections, and do all the other acts, which are by the constitution required to be made and done at the session which has heretofore commenced on the last Wednesday of May. And the general court shall be dissolved on the day next preceding the first Wednesday of January, without any proclamation or other act of the governor. But nothing herein contained shall prevent the general court from assembling at such other times as they shall judge necessary, or when called together by the governor. The

Commencement of political year,

and termination.

governor, lieutenant-governor and councillors, shall also hold their respective offices for one year next following the first Wednesday of January, and until others are chosen and qualified in their stead.

Meetings for the choice of governor, lieutenant-governor, &c., when to be held. May be adjourned. See amendments, Art. XV.

The meeting for the choice of governor, lieutenant-governor, senators and representatives, shall be held on the second Monday of November in every year; but meetings may be adjourned, if necessary, for the choice of representatives, to the next day, and again to the next succeeding day, but no further. But in case a second meeting shall be necessary for the choice of representatives, such meetings shall be held on the fourth Monday of the same month of November.

All the other provisions of the constitution, respecting the elections and proceedings of the members of the general court, or of any other officers or persons whatever, that have reference to the last Wednesday of May as the commencement of the political year, shall be so far altered, as to have like reference to the first Wednesday of January.

Article, when to go into operation.

This article shall go into operation on the first day of October, next following the day when the same shall be duly ratified and adopted as an amendment of the constitution; and the governor, lieutenant-governor, councillors, senators, representatives, and all other state officers, who are annually chosen, and who shall be chosen for the current year, when the same shall go into operation, shall hold their respective offices until the first Wednesday of January then next following, and until others are chosen and qualified in their stead, and no longer; and the first election of the governor, lieutenant-governor, senators and representatives, to be had in virtue of this article, shall be had conformably thereunto, in the month of November following the day on which the same shall be in force and go into operation, pursuant to the foregoing provision.

Inconsistent provisions annulled.

All the provisions of the existing constitution, inconsistent with the provisions herein contained, are hereby wholly annulled.

Religious freedom established.

ART. XI. Instead of the third article of the bill of rights, the following modification and amendment thereof is substituted:—

“As the public worship of God, and instructions in piety, religion and morality, promote the happiness and prosperity of a people, and the security of a republican government; therefore, the several religious societies of this Commonwealth, whether corporate or unincorporate, at any meeting

legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses: and all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society a written notice declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made or entered into by such society: and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the Commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law."

ART. XII. In order to provide for a representation of the citizens of this Commonwealth, founded upon the principles of equality, a census of the ratable polls in each city, town and district of the Commonwealth, on the first day of May, shall be taken and returned into the secretary's office, in such manner as the legislature shall provide, within the month of May, in the year of our Lord one thousand eight hundred and thirty-seven, and in every tenth year thereafter, in the month of May, in manner aforesaid: and each town or city having three hundred ratable polls at the last preceding decennial census of polls, may elect one representative, and for every four hundred and fifty ratable polls, in addition to the first three hundred, one representative more.

Census of ratable polls to be taken in 1837, and decennially thereafter.

Representatives, how apportioned. See amendments, Arts. XIII. and XXI.

Any town having less than three hundred ratable polls shall be represented thus: The whole number of ratable polls, at the last preceding decennial census of polls, shall be multiplied by ten, and the product divided by three hundred; and such town may elect one representative as many years within ten years, as three hundred is contained in the product aforesaid.

Towns having less than 300 ratable polls, how represented

Any city or town having ratable polls enough to elect one or more representatives, with any number of polls beyond the necessary number, may be represented, as to that surplus number, by multiplying such surplus number by ten, and dividing the product by four hundred and fifty; and such city or town may elect one additional representative as many years, within the ten years, as four hundred and fifty is contained in the product aforesaid.

Fractions, how represented.

Towns may unite into representative districts.

Any two or more of the several towns and districts may, by consent of a majority of the legal voters present at a legal meeting in each of said towns and districts, respectively, called for that purpose, and held previous to the first day of July, in the year in which the decennial census of polls shall be taken, form themselves into a representative district, to continue until the next decennial census of polls, for the election of a representative or representatives; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of ratable polls.

The governor and council to determine the number of representatives to which each town is entitled.

The governor and council shall ascertain and determine, within the months of July and August, in the year of our Lord one thousand eight hundred and thirty-seven, according to the foregoing principles, the number of representatives which each city, town and representative district is entitled to elect, and the number of years, within the period of ten years then next ensuing, that each city, town and representative district, may elect an additional representative; and where any town has not a sufficient number of polls to elect a representative each year, then, how many years within the ten years, such town may elect a representative; and the same shall be done once in ten years thereafter, by the governor and council, and the number of ratable polls in each decennial census of polls, shall determine the number of representatives which each city, town and representative district may elect as aforesaid; and when the number of representatives to be elected by each city, town or representative district is ascertained and determined as aforesaid, the governor shall cause the same to be published forthwith for the information of the people, and that number shall remain fixed and unalterable for the period of ten years.

New apportionment to be made once in every ten years.

Inconsistent provisions annulled.

All the provisions of the existing constitution inconsistent with the provisions herein contained, are hereby wholly annulled.

Census of inhabitants to be taken in 1840, and decennially thereafter, for basis of apportionment of senators and representatives.

ART. XIII. A census of the inhabitants of each city and town, on the first day of May, shall be taken and returned into the secretary's office, on or before the last day of June, of the year one thousand eight hundred and forty, and of every tenth year thereafter; which census shall determine the apportionment of senators and representatives for the term of ten years.

Senatorial districts declared permanent. See amendments, Art. XXII.

The several senatorial districts now existing, shall be permanent. The senate shall consist of forty members; and in the year one thousand eight hundred and forty, and every

tenth year thereafter, the governor and council shall assign the number of senators to be chosen in each district, according to the number of inhabitants in the same. But, in all cases, at least one senator shall be assigned to each district.

The members of the house of representatives shall be apportioned in the following manner: Every town or city containing twelve hundred inhabitants, may elect one representative; and two thousand four hundred inhabitants shall be the mean increasing number, which shall entitle it to an additional representative.

House of representatives, how apportioned. See amendments, Art. XXI.

Every town containing less than twelve hundred inhabitants shall be entitled to elect a representative as many times, within ten years, as the number one hundred and sixty is contained in the number of the inhabitants of said town. Such towns may also elect one representative for the year in which the valuation of estates within the Commonwealth, shall be settled.

Small towns, how represented.

Any two or more of the several towns may, by consent of a majority of the legal voters present at a legal meeting, in each of said towns, respectively, called for that purpose, and held before the first day of August, in the year one thousand eight hundred and forty, and every tenth year thereafter, form themselves into a representative district, to continue for the term of ten years; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of inhabitants.

Towns may unite into representative districts.

The number of inhabitants which shall entitle a town to elect one representative, and the mean increasing number, which shall entitle a town or city to elect more than one, and also the number by which the population of towns, not entitled to a representative every year, is to be divided, shall be increased, respectively, by one-tenth of the numbers above mentioned, whenever the population of the Commonwealth shall have increased to seven hundred and seventy thousand, and for every additional increase of seventy thousand inhabitants, the same addition of one-tenth shall be made, respectively, to the said numbers above mentioned.

Basis of representation, and ratio of increase.

In the year of each decennial census, the governor and council shall, before the first day of September, apportion the number of representatives which each city, town and representative district is entitled to elect, and ascertain how many years, within ten years, any town may elect a representative, which is not entitled to elect one every year; and the governor shall cause the same to be published forthwith.

The governor and council to apportion the number of representatives of each town once in every ten years.

Nine councillors shall be annually chosen from among the people at large, on the first Wednesday of January, or as

Councillors to be chosen from the people at large.

See amendments, soon thereafter as may be, by the joint ballot of the senators and representatives, assembled in one room, who shall, as soon as may be, in like manner, fill up any vacancies that may happen in the council, by death, resignation or otherwise. No person shall be elected a councillor who has not been an inhabitant of this Commonwealth for the term of five years immediately preceding his election ; and not more than one councillor shall be chosen from any one senatorial district in the Commonwealth.

Qualifications of councillors.

Freehold as a qualification not required. No possession of a freehold, or of any other estate, shall be required as a qualification for holding a seat in either branch of the general court, or in the executive council.

Elections by the people to be by plurality of votes. ART. XIV. In all elections of civil officers by the people of this Commonwealth, whose election is provided for by the constitution, the person having the highest number of votes shall be deemed and declared to be elected.

Time of annual election of governor and legislature. ART. XV. The meeting for the choice of governor, lieutenant-governor, senators and representatives, shall be held on the Tuesday next after the first Monday in November, annually ; but in case of a failure to elect representatives on that day, a second meeting shall be holden, for that purpose, on the fourth Monday of the same month of November.

Eight councillors to be chosen by the people. ART. XVI. Eight councillors shall be annually chosen by the inhabitants of this Commonwealth, qualified to vote for governor. The election of councillors shall be determined by the same rule that is required in the election of governor. The legislature, at its first session after this amendment shall have been adopted, and at its first session after the next State census shall have been taken, and at its first session after each decennial State census, thereafterwards, shall divide the Commonwealth into eight districts of contiguous territory, each containing a number of inhabitants as nearly equal as practicable, without dividing any town or ward of a city, and each entitled to elect one councillor : *provided, however,* that if, at any time, the constitution shall provide for the division of the Commonwealth into forty senatorial districts, then the legislature shall so arrange the councillor districts that each district shall consist of five contiguous senatorial districts, as they shall be, from time to time, established by the legislature. No person shall be eligible to the office of councillor who has not been an inhabitant of the Commonwealth for the term of five years immediately preceding his election. The day and manner of the elec-

Legislature to district State.

tion, the return of the votes, and the declaration of the said elections, shall be the same as are required in the election of governor. Whenever there shall be a failure to elect the full number of councillors, the vacancies shall be filled in the same manner as is required for filling vacancies in the senate; and vacancies occasioned by death, removal from the State, or otherwise, shall be filled in like manner, as soon as may be after such vacancies shall have happened. And that there may be no delay in the organization of the government on the first Wednesday of January, the governor, with at least five councillors for the time being, shall, as soon as may be, examine the returned copies of the records for the election of governor, lieutenant-governor and councillors; and ten days before the said first Wednesday in January he shall issue his summons to such persons as appear to be chosen, to attend on that day to be qualified accordingly; and the secretary shall lay the returns before the senate and house of representatives on the said first Wednesday in January, to be by them examined; and in case of the election of either of said officers, the choice shall be by them declared and published; but in case there shall be no election of either of said officers, the legislature shall proceed to fill such vacancies in the manner provided in the constitution for the choice of such officers.

Day and manner of election, &c.

Vacancies, how filled.

Organization of the government.

ART. XVII. The secretary, treasurer and receiver-general, auditor, and attorney-general, shall be chosen annually, on the day in November prescribed for the choice of governor; and each person then chosen as such, duly qualified in other respects, shall hold his office for the term of one year from the third Wednesday in January next thereafter, and until another is chosen and qualified in his stead. The qualification of the voters, the manner of the election, the return of the votes, and the declaration of the election, shall be such as are required in the election of governor. In case of a failure to elect either of said officers on the day in November aforesaid, or in case of the decease, in the mean time, of the person elected as such, such officer shall be chosen on or before the third Wednesday in January next thereafter, from the two persons who had the highest number of votes for said offices on the day in November aforesaid, by joint ballot of the senators and representatives, in one room; and in case the office of secretary, or treasurer and receiver-general, or auditor, or attorney-general, shall become vacant, from any cause, during an annual or special session of the general court, such vacancy shall in like

Election of secretary, treasurer, auditor and attorney-general by the people.

Vacancies, how filled.

To qualify within 10 days, otherwise office to be deemed vacant.

Qualifications requisite.

School moneys not to be applied for sectarian schools.

Legislature to prescribe for the election of sheriffs, registers of probate, &c., by the people.

Reading constitution in English and writing, a necessary qualification of voters.
Proviso.

Census of legal voters and of inhabitants, when taken, &c.

manner be filled by choice from the people at large ; but if such vacancy shall occur at any other time, it shall be supplied by the governor by appointment, with the advice and consent of the council. The person so chosen or appointed, duly qualified in other respects, shall hold his office until his successor is chosen and duly qualified in his stead. In case any person chosen or appointed to either of the offices aforesaid, shall neglect, for the space of ten days after he could otherwise enter upon his duties, to qualify himself in all respects to enter upon the discharge of such duties, the office to which he has been elected or appointed shall be deemed vacant. No person shall be eligible to either of said offices unless he shall have been an inhabitant of this Commonwealth five years next preceding his election or appointment.

ART. XVIII. All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the State for the support of common schools, shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is to be expended ; and such moneys shall never be appropriated to any religious sect for the maintenance, exclusively, of its own school.

ART. XIX. The legislature shall prescribe, by general law, for the election of sheriffs, registers of probate, commissioners of insolvency, and clerks of the courts, by the people of the several counties, and that district-attorneys shall be chosen by the people of the several districts, for such term of office as the legislature shall prescribe.

ART. XX. No person shall have the right to vote, or be eligible to office under the constitution of this Commonwealth, who shall not be able to read the constitution in the English language, and write his name : *provided, however*, that the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any persons who shall be sixty years of age or upwards at the time this amendment shall take effect.

ART. XXI. A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the Commonwealth, on or

before the last day of June, in the year one thousand eight hundred and fifty-seven ; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters ; and in each city said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of representatives for the periods between the taking of the census.

The house of representatives shall consist of two hundred and forty members, which shall be apportioned by the legislature, at its first session after the return of each enumeration as aforesaid, to the several counties of the Commonwealth, equally, as nearly as may be, according to their relative numbers of legal voters, as ascertained by the next preceding special enumeration ; and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts, as hereinafter provided, be considered a part of the county of Plymouth ; and it shall be the duty of the secretary of the Commonwealth, to certify, as soon as may be after it is determined by the legislature, the number of representatives to which each county shall be entitled, to the board authorized to divide each county into representative districts. The mayor and aldermen of the city of Boston, the county commissioners of other counties than Suffolk,—or in lieu of the mayor and aldermen of the city of Boston, or of the county commissioners in each county other than Suffolk, such board of special commissioners in each county, to be elected by the people of the county, or of the towns therein, as may for that purpose be provided by law, shall, on the first Tuesday of August next after each assignment of representatives to each county, assemble at a shire town of their respective counties, and proceed, as soon as may be, to divide the same into representative districts of contiguous territory, so as to apportion the representation assigned to each county equally, as nearly as may be, according to the relative number of legal voters in the several districts of each county ; and such districts shall be so formed that no town or ward of a city shall be divided therefor, nor shall any district be made which shall be entitled to elect more than three representatives. Every representative, for one year at least next preceding his election, shall have been an inhabitant of the district for which he is chosen, and shall cease to represent such district when he shall cease to be an inhabitant of the Commonwealth. The districts in each

House to consist
of 240 members.

Legislature to
apportion, &c.

Qualifications of
representatives.

county shall be numbered by the board creating the same, and a description of each, with the numbers thereof and the number of legal voters therein, shall be returned by the board, to the secretary of the Commonwealth, the county treasurer of each county, and to the clerk of every town in each district, to be filed and kept in their respective offices. The manner of calling and conducting the meetings for the choice of representatives, and of ascertaining their election, shall be prescribed by law. Not less than one hundred members of the house of representatives shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.

One hundred
members a
quorum.

Census, &c.

ART. XXII. A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the Commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters, and in each city said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of senators for the periods between the taking of the census. The senate shall consist of forty members. The general court shall, at its first session after each next preceding special enumeration, divide the Commonwealth into forty districts of adjacent territory, each district to contain, as nearly as may be, an equal number of legal voters, according to the enumeration aforesaid: *provided, however*, that no town or ward of a city shall be divided therefor; and such districts shall be formed, as nearly as may be, without uniting two counties, or parts of two or more counties, into one district. Each district shall elect one senator, who shall have been an inhabitant of this Commonwealth five years at least immediately preceding his election, and at the time of his election shall be an inhabitant of the district for which he is chosen; and he shall cease to represent such senatorial district when he shall cease to be an inhabitant of the Commonwealth. Not less than sixteen senators shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.

Senate to consist
of 40 members.
Senatorial dis-
tricts, &c.

Proviso.

Qualifications of
senators.

Sixteen members
a quorum.

ART. XXIII. No person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be otherwise qualified, according to the constitution and laws of this Commonwealth: *provided*, that this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof; and *provided, further*, that it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom.

Residence of two years required of naturalized citizen, to entitle to suffrage or make eligible to office.

[NOTE.—The Constitution of Massachusetts was agreed upon by delegates of the people, in convention, begun and held at Cambridge, on the first day of September, 1779, and continued by adjournments to the second day of March, 1780, when the convention adjourned to meet on the first Wednesday of the ensuing June. In the meantime the Constitution was submitted to the people, to be adopted by them, provided two-thirds of the votes given should be in the affirmative. When the convention assembled, it was found that the Constitution had been adopted by the requisite number of votes, and the convention accordingly *Resolved*, “That the said Constitution or Frame of Government shall take place on the last Wednesday of October next; and not before, for any purpose, save only for that of making elections, agreeable to this resolution.” The first legislature assembled at Boston, on the twenty-fifth day of October, 1780.

The first nine Articles of Amendment were submitted, by delegates in convention assembled, November 15, 1820, to the people, and by them approved and adopted, April 9, 1821.

The tenth Article of Amendment was adopted by the legislatures of the political years 1829–30, and 1830–31, respectively, and was approved and ratified by the people, May 11, 1831.

The eleventh Article of Amendment was adopted by the legislatures of the political years 1832 and 1833, respectively, and was approved and ratified by the people, November 11, 1833.

The twelfth Article of Amendment was adopted by the legislatures of the political years 1835 and 1836, respectively, and was approved and ratified by the people, the fourteenth day of November, 1836.

The thirteenth Article of Amendment was adopted by the legislatures of the political years 1839 and 1840, respectively, and was approved and ratified by the people, the sixth day of April, 1840.

The fourteenth, fifteenth, sixteenth, seventeenth, eighteenth and nineteenth Articles of Amendment were adopted by the legislatures of the political years 1854 and 1855, respectively, and ratified by the people, the twenty-third day of May, 1855.

The twentieth, twenty-first and twenty-second Articles of Amendment were adopted by the legislatures of the political years 1856 and 1857, respectively, and ratified by the people on the first day of May, 1857.

The twenty-third Article of Amendment was adopted by the legislatures of the political years 1858 and 1859, respectively, and ratified by the people on the ninth day of May, 1859.]

INDEX TO THE CONSTITUTION.

A.

	Page.
Adjutant-General, how appointed, ...	XXI
Adjutants of Regiments, how appointed, ...	XXI
Affirmations. See Oaths and Affirmations,	
Agriculture, Arts, Commerce, &c., encouragement of, ...	XXVIII
Amendments to the Constitution, how made, ...	XXXV, XLV
Apportionment of Councillors, ...	XL
“ of Representatives, ...	XV, XXXVII, XXXVIII, XXXIX, XLIII
“ of Senators, ...	XII, XXXVIII, XLIV
Armies, Standing, should not be maintained without consent of Legisla- ture, ...	VII
Arms, Right of People to keep and bear, ...	VII
Articles of Amendment, ...	XXXII
Attorney-General, how appointed, ...	XX
“ how elected, ...	XLI
“ Qualifications of, ...	XLII
“ Vacancy in Office of, how filled, ...	XLI
Attorneys, District, how chosen, ...	XLII
Auditor, how chosen, ...	XLI
“ Qualifications of, ...	XLII
“ Vacancy in Office of, how filled, ...	XLI

B.

Bail and Sureties, Excessive, not to be demanded, ...	VIII
Bills and Resolves, to be laid before the Governor for revisal, ...	X
“ “ to have the force of law, unless returned within five days, ...	X
“ “ to be void when not returned, if Legislature adjourns within five days, ...	XXXII
“ “ when vetoed, may be passed by two-thirds of each House, ...	X
Bills, Money, to originate in the House of Representatives, ...	XVI
Body Politic, how formed, and nature of, ...	III
Bribery or Corruption in obtaining an Election, to disqualify for Office, ...	XXX

C.

	Page.
Cambridge, the University at, ...	XXVI
Census of Inhabitants, when and how taken, ...	XXXVIII, XLIII, XLIV
“ of Legal Voters; when and how taken, ...	XLII, XLIV
“ of Ratable Polls, when and how taken, ...	XXXVII
Cities, General Court empowered to charter, ...	XXXIII
Civil and Military Officers, duties of, to be prescribed by Legislature, ...	XI
Commander-in-Chief. See Governor.	
Commerce, Manufactures, Arts, &c., encouragement of, ...	XXVIII
Commissary-General, when and how nominated, &c., ...	XXXIV
“ “ to make Quarterly Returns, ...	XXI
Commissioners of Insolvency, how chosen, ...	XLII
Commission Officers, Tenure of Office of, to be expressed in Commission, ...	XXV
Commissions, how made, signed, countersigned, and sealed, ...	XXXI
Congress, Delegates to, how chosen and commissioned, ...	XXV
“ “ may be recalled, and others commissioned, ...	XXVI
“ what Offices may not be held by Members of, ...	XXXV
Constitution, Amendments to, how made, ...	XXXV, XLV
“ Revision of in 1795, provided for, ...	XXXII
“ to be enrolled, deposited in Secretary’s Office, and printed with the laws, ...	XXXII
Coroners, how appointed, ...	XX
Corruption. See Bribery.	
Council, and the manner of settling Elections by the Legislature, ...	XXIII
“ may exercise powers of Executive, when, &c., ...	XXIV
“ Members of, to be sworn in presence of both Houses, ...	XXIX
“ Members of, number, and how chosen, ...	XXIII, XXIV, XXXIX, XL
“ Objects of, ...	XXIII
“ Quorum of, ...	XXIII
“ Rank and Qualifications of Members of, ...	XXIII, XL
“ Register of, subject to the call of either House, ...	XXIII
“ Resolutions and Advice of, to be recorded, ...	XXIII
“ Vacancies in, how filled, ...	XLI
Court of Common Pleas, Judges of, prohibited from holding other Offices, ...	XXXV
“ Supreme Judicial, Judges of, Tenure of Office of, and Salary, ...	IX, XXII
Courts and Judicatories, may administer Oaths and Affirmations, ...	X
“ Clerks of, how chosen, ...	XLII
“ of Probate. See Probate.	
“ of Record and Judicatories, the General Court may establish, ...	X
Crimes and Offences, Prosecutions for, regulated, ...	VI, VII

D.

Debate, Freedom of, in Legislature, affirmed, ...	VIII
Declaration of Rights, ...	IV
Delegates to Congress, ...	XXV
“ “ how chosen, ...	XXV

	Page.
Delegates to Congress, may be recalled, and others commissioned, ...	XXVI
District-Attorneys, how chosen, ...	XLII
Districts, Councillor, how established and arranged, ...	XII, XL
" Representative, how formed, ...	XLIII
" " Towns may unite in, ...	XXXVIII, XXXIX
" Senatorial, how established and arranged, ...	XII, XXXVIII, XLIV
Divorce and Alimony, causes of, how determined, ...	XXV
Duties of Civil and Military Officers, to be prescribed by Legislature, ...	XI

E.

Elections, by Legislature, Adjournment of, ...	XXIV
" " Order of, ...	XXIV
" by the People, Plurality Rule to prevail in, ...	XL
" Freedom of, affirmed, ...	VI
Election Returns, by whom examined, &c., ...	XIV, XLI
Enacting Style, established, ...	XXXI
Encouragement of Literature, ...	XXVII
Enrollment. See Constitution.	
Equality and Natural Rights, recognized, ...	IV
Estates, Valuation of, when taken, ...	XI
Executive Power, ...	XVII
" not to exercise Legislative or Judicial Powers, ...	IX
<i>Ex Post Facto</i> Laws, injustice of, declared, ...	VIII

F.

Felony and Treason, conviction of, by Legislature, forbidden, ...	VIII
Fines, Excessive, prohibited, ...	VIII
Freedom of Debate, in Legislature, affirmed, ...	VIII

G.

General Court, frequent Sessions of, enjoined, ...	VIII
" " how formed, ...	IX
" " may make Laws, Ordinances, &c., ...	XI
" " may provide for the naming and settling of Civil Officers, ...	XI
" " may prescribe the Duties of Civil and Military Officers, ...	XI
" " may impose Taxes, Duties, and Excises, ...	XI
" " may constitute Judicatories, and Courts of Record, ...	X
" " may charter Cities, ...	XXXIII
" " may be prorogued by Governor and Council, ...	XVIII, XIX
" " when to assemble, and when to be dissolved, ...	X, XIX, XXXV
Government, Frame of, ...	IX
" Executive, Legislative, and Judicial Departments of, limits of defined, ...	IX
" Objects of, ...	III
" Right of People to institute, alter, &c., ...	III, VI

	Page.
Governor, may call Councillors together at his discretion, ...	XVIII
“ Qualifications of, ...	XVII, XXXIV
“ Salary of, ...	XXII
“ shall sign such Bills and Resolves as he approves, ...	X
“ shall return such Bills and Resolves as he does not approve, .	X
“ Style and Title of, ...	XVII
“ to be Commander-in-Chief of Military Forces of State, . . .	XIX
“ to be sworn in presence of both Houses, ...	XXIX
“ the holding of other Offices by, prohibited, ...	XXX, XXXIV
“ when and how chosen, ...	XVII, XVIII, XXXIII, XXXVI, XL
“ and Council, may pardon Offences, after Conviction, ...	XX
“ “ may prorogue the Legislature, ...	XVIII, XIX
“ “ shall examine Election Returns, ...	XIV, XLI

H.

<i>Habeas Corpus</i> , Benefit of, secured, ...	XXXI
“ “ not to be suspended more than twelve months, ...	XXXI
Harvard College, Powers, Privileges, Grants, &c., confirmed to, .	XXVI
“ “ who shall be Overseers of, ...	XXVII
“ “ Government of, may be altered by Legislature, ...	XXVII
House of Representatives, ...	XV
“ “ Members of, how apportioned and chosen, ...	XV, XVI, XXXVI, XXXVII, XXXVIII, XXXIX, XL, XLIII, XLIV
“ “ Qualifications of Members of, ...	XVI, XL, XLIII
“ “ Qualifications of Voters for Members of, ...	XVI, XXXIII, LII
“ “ to judge of the Qualifications, &c., of its own Members, ...	XVI
“ “ to choose its own Officers, establish its own Rules, &c., ...	XVI
“ “ may punish Persons not Members, for disre- spect, &c., ...	XVI
“ “ may try and determine all Cases involving its Rights and Privileges, ...	XVII
“ “ shall be the Grand Inquest to impeach, ...	XVI
“ “ all Money Bills to originate in, ...	XVI
“ “ not to adjourn more than two days at a time, ...	XVI
“ “ Quorum of, ...	XVI, XLIV
“ “ Members of, exempt from arrest on Mean Process, ...	XVII
“ “ Towns may be fined for neglecting to return Members to, ...	XVI
“ “ Travelling Expenses of Members of, how paid, ...	XVI
“ “ Oaths or Affirmations of Members of, how taken and subscribed to, ...	XXIX

I.

Impeachment, Limitation of Sentence for, ...	Pago. XV
Impeachments, how made and tried, ...	XV, XVI
Incompatible Offices, enumeration of, ...	XXX, XXXIV, XXXV
"Inhabitant," word defined, ...	XIII
Inhabitants, Census of, when taken, ...	XXXVIII, XLIII, XLIV
Insolvency, Commissioners of, how chosen, ...	XLII
Instruction and Petition, Right of, affirmed, ...	VIII

J.

Judicatories and Courts of Record, Legislature may establish, ...	X
" " " may administer Oaths and Affirmations, ...	X
Judicial Department, not to exercise Legislative or Executive Powers, ...	IX
Officers, how appointed, ...	XX
" to hold Office during good behavior, except, &c., ...	XXV
" may be removed on Address of Legislature, ...	XXV
Judiciary Power, ...	XXV
Judges of Court of Common Pleas, what other Offices may not be held by, ...	XXXIV, XXXV
Judges of Probate, shall hold Courts on fixed days, &c., ...	XXV
" Appeals from, how heard and determined, ...	XXV
" what other Offices may not be held by, ...	XXXIV, XXXV
Jury, Right of Trial by, secured, ...	VII
Justices of the Peace, Tenure of Office of, ...	XXV
" Commissions of, may be renewed, ...	XXV
Supreme Judicial Court, Tenure of Office, and Salaries of, ...	IX, XXII, XXV
" " " what other Offices may not be held by, ...	XXX, XXXIV, XXXV
" " " Opinions of, may be required by Executive or either branch of Legislature, ...	XXV

L.

Law-Martial, Persons not in the Army, Navy, or Actual Service, not to be subjected to, ...	VIII
Laws, every Person to have remedy in, for injury to Person or Property, ...	VI
<i>Ex Post Facto</i> , declared unjust and inconsistent with Free Government, ...	VIII
not repugnant to Constitution, Legislature may make, ...	XI
of Province, Colony, or State of Massachusetts Bay, not repugnant to Constitution, continued in force, ...	XXXI
Power of suspending, only in Legislature, ...	VIII
Legal Voters, Census of, when taken, ...	XLII, XLIV
Legislative Department, not to exercise Executive or Judicial Powers, ...	IX
Power, ...	IX
Legislature. See General Court.	
Lieutenant-Governor, ...	XXII

	Page.
Lieutenant-Governor, when and how chosen, ...	XXII, XXXIII, XXXVI, XL
“ “ Title of, ...	XXII
“ “ Qualifications of, ...	XXII
“ “ Powers and Duties of, ...	XXII, XXIII
“ “ to be sworn in presence of both Houses, ...	XXIX
Literature, Encouragement of, ...	XXVII

M.

Magistrates and Officers, accountability of, ...	V
Major-Generals, how appointed and commissioned, ...	XX
Martial Law, Persons not in the Army, Navy, or Actual Service, not to be subjected to, ...	VIII
Meetings, Plantation, Provisions respecting, ...	XIII
“ Town, Selectmen to preside at, ...	XIII
Military Power, to be subordinate to Civil, ...	VII
Militia Offices, Vacancies in, how filled, ...	XX
“ Officers, how elected and commissioned, ...	XX, XXXIV
“ “ how removed, ...	XX, XXXIV
“ organization of, into Brigades, Regiments, and Companies, confirmed, ...	XXI
Money Bills, to originate in House of Representatives, ...	XVI
“ how drawn from the Treasury, ...	XXI
“ value of, how computed, ...	XXX
Moneys, for the Support of Schools, how applied, ...	XLII
Moral Principles, necessity of the observance of, in a Free Government, ...	VII

N.

Notaries Public, how chosen, ...	XXIV
“ “ how appointed, Tenure of Office, &c., ...	XXXIII

O.

Oaths and Affirmations, Courts and Judicatories may administer, ...	X
“ “ Forms of, ...	XXVIII, XXIX, XXXIV
“ “ how and by whom taken and subscribed, ...	XXVIII, XXIX, XXX, XXXIV
“ and Subscriptions; Incompatibility of and exclusion from Offices, &c., &c., ...	XXVIII
“ variation of, in behalf of Quakers, ...	XXIX, XXXIV
Offences. See Crimes and Offences.	
Office, Right of People to secure Rotation in, ...	VI
“ Equal Right of All to, affirmed, ...	VI
“ no Person eligible to, who cannot read and write, ...	XLII
Officers, Civil, Legislature may provide for the naming and settling of, ...	XI
“ Civil and Military, duties of to be prescribed by Legislature, ...	XI
“ “ “ holding under Government of Massachusetts Bay, continued in Office, ...	XXXI

	Page.
Officers and Magistrates, accountability of, ...	v
Officers, Militia, how elected and commissioned, ...	xx, xxxiv
“ “ how removed, ...	xx, xxxiv
Offices, Incompatible, ...	xxx, xxxiv, xxxv
“ Militia, Vacancies in, how filled, ...	xx
“ Plurality of, prohibited to Governor, Lieutenant-Governor, and Judges, ...	xxx, xxxiv, xxxv

P.

Pardon, Power of, vested in Governor and Council, ...	xx
People, Right of, to keep and bear Arms, ...	vii
Person and Property, Remedy for all Injuries to, should be found in the Laws, ...	vi
Petition and Instruction, Right of, affirmed, ...	viii
Plantations, Unincorporated, Tax-paying Inhabitants of may vote for Councillors and Senators, ...	xiii
Plurality of Votes, election of Civil Officers by, ...	xl
Political Year, when to begin and end, ...	xxxv
Polls, Ratable, Census of, when taken, ...	xxxvii
Power, Executive, ...	xvii
“ Judiciary, ...	xxv
“ Legislative, ...	ix
Preamble, ...	iii
Press, Liberty of, essential to Freedom, ...	vii
Probate, Judges of, shall hold Courts on fixed days, &c., ...	xxv
“ “ Appeals from, how heard and determined, ...	xxv
“ “ what other Offices may not be held by, ...	xxxiv, xxxv
“ Registers of, how appointed, ...	xx
“ “ how elected, ...	xlvi
Property, Private, not to be taken for Public Uses without Compensation, ...	vi
“ Qualification, may be increased by Legislature, ...	xxxi
“ “ partially abolished, ...	xl
Prosecutions, for Crimes and Offences, regulated, ...	vi
Public Boards, Returns of, how, when, and to whom made, ...	xxi
“ Officers, Right of People with reference to, ...	vi
“ Services, the only Title to particular and exclusive Privileges, ...	v
“ Worship, the Right and Duty of, ...	iv
“ “ Legislature may compel Provisions for, ...	iv
Punishments, Cruel and Unusual, prohibited, ...	viii

Q.

Quakers, variation of Oath in behalf of, ...	xxix, xxxiv
Qualifications of Governor, ...	xvii, xxxiv, xlii
“ of Lieutenant-Governor, ...	xxii, xli
“ of Councillors, ...	xl, xlii
“ of Senators, ...	xiv, xl, xlii, xlii

	Page.
Qualifications of Representatives, ...	XVI, XL, XLII, XLIII
“ of Secretary, Treasurer, Auditor and Attorney-General, .	XLII
“ of Voters, ...	XII, XVI, XXXIII, XLII
“ Moral, of Officers and Magistrates, ...	VII
Qualification, Property, may be increased, ...	XXXI
“ “ partial abolition of, ...	XL
Quorum, of Council, ...	XXVIII, XXIII
“ of House, ...	XVI, XLIV
“ of Senate, ...	XV, XLIV

R.

Ratable Polls, Census of, when taken, ...	XXXVII
“ “ Towns having less than 300, how represented, . . .	XXXVII
“ “ Towns having less than 150, how represented, . . .	XV
Read and Write, Persons who cannot, not to vote or hold Office, .	XLII
Register of Council, to be kept, subject to the call of either House, .	XXIII
Registers of Probate. See Probate.	
Religious Denominations, equal protection secured to all, . . .	V, XXXVII
“ Societies, Right of, to elect their own Pastors, &c., . . .	V, XXXVII
“ “ Persons belonging to, to be held as Members, till they file Notice of Dissolution, ...	XXXVII
Representation, in Council, basis of, ...	XL
“ in House, ...	XV, XXXVII, XXXVIII, XXXIX, XLIII
“ in Senate, ...	XII, XXXVIII, XLIV
Representatives. See House of Representatives.	
Returns, Quarterly, how and by whom to be made, ...	XXI
Returns of Votes, by whom made, examined, &c., ...	XIII, XIV, XVIII, XLI
Revision of Constitution. See Constitution.	
Rights, Natural, declaration of, &c., ...	IV

S.

Salaries, of Judges of Supreme Court, ...	IX, XXII
Salary, of Governor, ...	XXII
Schools, Money raised and appropriated for, how to be applied, . .	XLII
“ Sectarian, appropriation of Money for, prohibited, . . .	XLII
Search and Seizure, the Right of every Man to be secure from, . .	VII
Secretary, Treasurer, Commissary, &c., ...	XXIV
Secretary of the Commonwealth, how chosen, ...	XXIV, XLI
“ “ Qualifications of, ...	XLII
“ “ Duties of, ...	XXIV, XLIII
“ “ may appoint Deputies, &c., ...	XXIV
“ “ Vacancy in Office of, how filled, ...	XXXIII, XLI
Selectmen, Duty of, ...	XIII
Self-government, Right of, asserted, ...	V
Senate, ...	XII
“ Members of, number, and how chosen, ...	XII, XXXIII, XXXVIII, XLIV

	Page.
Senate, Members, Qualifications of, ...	XIV, XL, XLII, XLIV
“ “ shall be sworn preliminary to trial of Impeachment, .	XV
“ “ exempt from arrest on Mean Process, ...	XVII
“ Quorum of, ...	XV, XLIV
“ Vacancies in, how filled, ...	XIV
“ to be final judge of elections of its own Members, . . .	XIV
“ not to adjourn more than two days, ...	XV
“ shall choose its own Officers, and establish its own Rules, .	XV
“ shall try Impeachments, ...	XV
“ may punish persons not Members, for disrespect, &c., . .	XVI, XVII
“ may try and determine all cases involving its own Rights and Privileges, ...	XVII
Senators, Apportionment of, ...	XII, XXXVIII, XLIV
“ Oaths and Affirmations, how taken and subscribed by, . .	XXIX
Senatorial Districts. See Districts.	
Services, Public, the only Title to particular Privileges, . . .	V
Sheriffs, how appointed, ...	XX
“ how elected, ...	XLII
Soldier, not to be quartered in any house without consent of owner, .	VIII
Solicitor-General, how appointed, ...	XX
Standing Armies, without consent of Legislature, prohibited, . .	VII
Supreme Being, the Public Worship of, a Right and Duty, &c., . .	IV
“ Judicial Court, Tenure of Office and Salaries of Judges of, .	IX, XXII
Sureties and Bail, excessive, not to be demanded, ...	VIII
Suspension of Laws, Power of, only in Legislature, ...	VIII

T.

Taxation, should be founded on consent, ...	VI, VIII
Taxes, Excises, &c., Legislature may impose, ...	XI
Tax, State or County, payment of, one of the Qualifications of a Voter, XIII, XXXIII	
Tests, Religious, abolished, ...	XXXIV
Title, of Governor, ...	XVII
“ of Lieutenant-Governor, ...	XXII
Town Meetings, Selectmen to preside at, ...	XIII
Towns, having less than 300 Ratable Polls, how represented, . .	XXXVII
“ having less than 150 Ratable Polls, how represented, . . .	XV
“ may unite in Representative District, ...	XXXVIII, XXXIX
Travel, Expenses of, to and from the General Court, how paid, . .	XVI
Treason and Felony, Legislature not to convict of, ...	VIII
Treasurer and Receiver-General, how chosen, ...	XXIV, XLI
“ “ qualifications of, ...	XLII
“ “ eligibility to Office of, more than five years, prohibited, ...	XXIV
“ “ Vacancy in Office of, how filled, ...	XXXIII, XLI
Trial, by Jury, Right of, secured, ...	VII

U.

	Page.
University at Cambridge, &c., ...	xxvi

V.

Vacancies in Council, how filled, ...	xli
“ in Militia Offices, how filled, ...	xx
“ in Offices of Secretary, Treasurer, Auditor and Attorney-General, how filled, ...	xxxiii, xli
“ in Senate, how filled, ...	xiv
Valuation of Estates, when taken, ...	xi
Veto, Power of, conferred upon Governor, ...	x
Vote, no Person entitled to, who cannot read and write, ...	xlii
Voters, Legal, Census of, when taken, ...	xlii, xlii
“ qualifications of, ...	xii, xvi, xxxiii, xlii
Votes, all Civil Officers to be elected by a plurality of, ...	xl
“ Returns of, by whom made, examined, &c., ...	xiii, xiv, xviii, xli

W.

Worship, Public, the Right and Duty of all Men, ...	iv
Writs, how made, issued, &c., ...	xxxi

Y.

Year, Political, when to begin and end, ...	xxxv
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GENERAL STATUTES

AND

SPECIAL ACTS

OF

MASSACHUSETTS,

PASSED

1858.

AN ACT TO ESTABLISH A BETTER SYSTEM FOR THE ADMINISTRATION OF THE FINANCES OF THIS COMMONWEALTH. *Chap. 1.*

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECTION 1. No money shall be paid from the treasury of this Commonwealth at any time hereafter, except upon the warrant of the governor, drawn in accordance with some appropriation contained in some act or resolve duly passed within the same political year.

Money paid from treasury only on warrant of governor.

SECTION 2. There shall be excepted from the provisions of the preceding section, all payments required on account of the principal or interest of any public debt, or for the salaries established by standing laws of the judges of the supreme judicial court and of the governor : and said principal and interest shall be paid whenever they may become due, and said salaries shall be paid under the warrant of the governor, in the same manner as if a specific appropriation therefor were included in a separate law passed each year.

Exceptions.

SECTION 3. This act shall not be construed to prevent the payment from the treasury in any year, to any person or persons to whom the same may be justly due, of any appropriation, or any unexpended balance of any appropriation, duly made in the preceding year. But in case any appro-

How construed. Appropriations not called for, in two years, shall revert, &c.

priation or balance shall not be called for by the person or persons to whom it may be due, or shall not be applied to the objects for which it was designed, within the same political year in which it shall have been made, or the succeeding political year, such appropriation or balance shall revert to the general treasury, and shall not afterwards be paid out, except by virtue of a new appropriation.

Treasurer's annual report to contain statement of warrants unpaid, &c.

SECTION 4. It shall be the duty of the treasurer to include in his annual report to the legislature, a specific statement of all warrants remaining unpaid, and the names of the persons in whose favor they were drawn; in order that the payment of such sums under this head as may be necessary and proper, may be authorized by new appropriations.

SECTION 5. This act shall take effect from and after its passage.

Approved January 22, 1858.

Chap. 2.

AN ACT TO REGULATE THE COMPENSATION OF MEMBERS, OFFICERS AND ATTENDANTS OF THE LEGISLATURE.

Be it enacted, &c., as follows:

Compensation and mileage of members.

SECTION 1. The compensation of each member of the senate and house of representatives shall be three hundred dollars, for the regular annual session for which such member shall have been elected, and one dollar for every five miles travel from their respective places of abode, once in each session, to the place of the sitting of the general court, to be paid in the manner following, to wit: On the first day of such regular annual session, each senator and representative shall be entitled to receive his mileage, and on the first day of each month thereafter, shall be paid at the rate of two dollars per day, until the sum of three hundred dollars above named shall have been paid; and on the last day of the session there shall be paid to each senator and representative the balance, if any remain unpaid, of the said sum of three hundred dollars.

Duty of treasurer

SECTION. 2. It shall be the duty of the treasurer, or other officer who may be charged with the payment of the members of the legislature, to deduct from the compensation of each member, as herein provided, three dollars for each day that such member shall have been absent, unless his absence shall have been excused by the house of which he is a member: and it shall be the duty of the clerks of the senate and house, respectively, to certify, upon the written statement of members, to the treasurer of the Commonwealth, or such other officer as may be charged with the payment of the members, the number of days of each mem-

Clerks to certify, &c.

ber's attendance, and such written statements of members shall be preserved in the office of the treasurer.

SECTION 3. The president of the senate and speaker of the house of representatives shall receive double the compensation above provided for senators and representatives, to be paid at the times and in the manner herein provided for the payment of said senators and representatives. Compensation of presiding officers.

SECTION 4. No periodicals, publications or books, other than those printed for the use of the legislature, shall hereafter be ordered for members at the charge of the Commonwealth. Publications prohibited.

SECTION 5. There shall be paid to the clerks of the senate and house of representatives, respectively, an annual salary of two thousand dollars, to be paid quarterly, which shall be considered full compensation for the performance of all the duties now required of, and performed by, the said clerks and their assistants, including the preparing of an index and duplicate copy of the journals. Compensation of clerks.

SECTION 6. There shall be paid to the chaplains of the senate and house of representatives, an annual salary of two hundred dollars each, to be paid at the close of the regular annual session of the legislature. Compensation of chaplains.

SECTION 7. There shall be paid to each of the doorkeepers and messengers of the senate and house of representatives, the sum of three hundred dollars, and to the pages of the senate and house, the sum of two hundred dollars each, which shall be considered full compensation for all services which may be required of said door-keepers, messengers and pages, at the regular annual session of the legislature; said sums to be paid monthly, at the rate of two dollars per day for each door-keeper or messenger, and of one dollar and fifty cents per day for each page, until the said sums of three hundred dollars and two hundred dollars, above named, shall have been paid; and on the last day of the session, there shall be paid to each messenger, door-keeper and page, the balance, if any remain unpaid, of the sums above named. Compensation of doorkeepers, messengers, &c.

SECTION 8. All acts or parts of acts inconsistent with this act, are hereby repealed. Repeal.

SECTION 9. This act shall apply to the present legislature, and shall take effect from and after its passage.

Approved January 30, 1858.

Chap. 3. AN ACT TO PERPETUATE THE EVIDENCE OF FORECLOSURE OF MORTGAGES OF PERSONAL PROPERTY.

Be it enacted, &c., as follows :

Affidavit of mortgagee's intention to foreclose, filed in town clerk's office, may be used as evidence.

Whenever any mortgagee of personal property, or his assigns, shall have given notice of his or their intention to foreclose his mortgage, in the manner required by the seventy-second chapter of the acts of the year eighteen hundred and forty-three, or the one hundred and seventy-fourth chapter of the acts of the year eighteen hundred and fifty-six, he or they may make affidavit thereof and cause the same to be recorded at any time before foreclosure, in the town clerk's office where the mortgage is recorded; and whenever any such affidavit shall be so made and recorded, the same, or said record thereof, shall be admitted as evidence of the service of notice in the manner therein set forth.

Approved February 1, 1858.

Chap. 4. AN ACT TO AUTHORIZE THE SPRINGFIELD FIRE AND MARINE INSURANCE COMPANY TO INCREASE ITS INVESTMENT IN REAL ESTATE.

Be it enacted, &c., as follows :

Additional real estate, \$15,000.

The Springfield Fire and Marine Insurance Company is hereby authorized to hold real estate in the city of Springfield, to an amount not exceeding in value fifteen thousand dollars, in addition to the amount authorized by the second section of the one hundred and thirty-fifth chapter of the laws of this Commonwealth, for the year eighteen hundred and forty-nine, and subject to the exceptions therein contained.

Approved February 1, 1858.

Chap. 5. AN ACT CONCERNING THE BRANCHES TO BE TAUGHT IN THE PUBLIC SCHOOLS.

Be it enacted, &c., as follows :

Act amended.

SECTION 1. The first section of the twenty-third chapter of the Revised Statutes, and the first section of the fifty-sixth chapter of the laws of the year one thousand eight hundred and thirty-nine, are hereby so amended, that the teachers of schools required to be kept by such sections, shall be competent to give instruction in orthography, reading, writing, English grammar, geography, arithmetic, physiology and hygiene, the history of the United States, and in good behavior.

Additional branches to be taught.

SECTION 2. Physiology, hygiene and algebra, shall hereafter be taught in the public schools of this Commonwealth, in all cases in which the school committee shall deem it expedient.

Repeal.

SECTION 3. Chapter two hundred and twenty-nine, of the laws of the year one thousand eight hundred and fifty, and

the first section of chapter two hundred and six, of the laws of the year one thousand eight hundred and fifty-seven, are hereby repealed.

Approved February 5, 1858.

AN ACT IN ADDITION TO AN ACT CONCERNING ELECTIONS OF REPRESENTATIVES TO THE GENERAL COURT.

Chap. 6.

Be it enacted, &c., as follows :

SECTION 1. Whenever a vacancy may exist, or may hereafter occur in any representative district, in this Commonwealth, the speaker of the house of representatives shall, in the precept, which he may issue by order of the house, giving notice of the fact of such vacancy, appoint a time, at which an election to fill such vacancy shall be held in said district. Upon the reception of such precept, the mayor and aldermen of any city wherein such district lies, and the selectmen of the several towns comprising such district, shall issue their warrants for an election to fill such vacancy on the day named in said precept; and the same proceedings shall be had in the conducting of said election, and ascertaining and recording the result thereof, notifying the persons elected, and making certificates and returns of such election, as in case of the original election of such representatives.

Vacancy in district.

Speaker to appoint time for filling.

On reception of precept, warrant to fill vacancy to be issued, &c.

SECTION 2. This act shall take effect from and after its passage.

Approved February 5, 1858.

AN ACT RELATING TO THE DISTRIBUTION OF THE ANNUAL REPORTS OF RAILROAD CORPORATIONS.

Chap. 7.

Be it enacted, &c., as follows :

SECTION 1. The secretary of the Commonwealth is hereby authorized to furnish to every railroad corporation established within the Commonwealth, one copy of each of the annual reports of the other railroad corporations which are now required, by law, to be delivered, annually, by the respective corporations, to the Secretary of the Commonwealth.

Secretary to furnish each railroad one copy of reports.

SECTION 2. This act shall take effect from and after its passage.

Approved February 8, 1858.

AN ACT TO CHANGE THE NAME OF THE JAMAICA PLAIN ATHENÆUM.

Chap. 8.

Be it enacted, &c., as follows :

SECTION 1. The corporate name of the "Jamaica Plain Athenæum" shall hereafter be the Eliot Library Association.

Eliot Library Association.

SECTION 2. This act shall take effect from and after its passage.

Approved February 8, 1858.

Chap. 9. AN ACT TO EXTEND THE CHARTER OF THE AMERICAN INSURANCE COMPANY.

Be it enacted, &c., as follows :

Charter extended
twenty years
from June 12,
1858.

SECTION 1. The American Insurance Company is hereby continued a corporation, for the term of twenty years from and after the twelfth day of June, one thousand eight hundred and fifty-eight; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the thirty-seventh and forty-fourth chapters of the Revised Statutes, and in all subsequent general laws of this Commonwealth, that have been or may be passed in relation to similar corporations.

Approved February 11, 1858.

Chap. 10. AN ACT IN ADDITION TO "AN ACT TO REGULATE THE USE OF RAILROADS."

Be it enacted, &c., as follows :

Commissioners to
determine their
proportion of
compensation.

SECTION 1. The compensation of commissioners, who may hereafter be appointed in accordance with the provisions of the one hundred and ninety-first chapter of the acts of the year eighteen hundred and forty-five, and the two hundred and ninety-first chapter of the acts of the year eighteen hundred and fifty-seven, shall be paid by the respective corporations, in such proportions as said commissioners shall determine.

Repeal.

SECTION 2. The fourth section of the one hundred and ninety-first chapter of the acts of the year eighteen hundred and forty-five, is hereby repealed.

SECTION 3. This act shall take effect from and after its passage.

Approved February 11, 1858.

Chap. 11. AN ACT MAKING APPROPRIATIONS FOR THE MAINTENANCE OF THE GOVERNMENT DURING THE CURRENT YEAR.

Be it enacted, &c., as follows :

Appropriations
for 1858.

SECTION 1. The sums hereinafter mentioned are appropriated, and shall be allowed and paid out of the treasury of this Commonwealth, upon the warrants of the governor, for the purposes specified, to meet the current expenses of the year ending on the thirty-first day of December, one thousand eight hundred and fifty-eight, that is to say :

Lieutenant-Gov-
ernor and coun-
cil.

For the mileage and compensation of the lieutenant-governor and council, a sum not exceeding eight thousand dollars.

Mileage and com-
pensation of leg-
islature.

For the mileage of senators, a sum not exceeding four hundred dollars.

For the mileage of representatives, a sum not exceeding two thousand three hundred dollars.

For the compensation of senators, a sum not exceeding twelve thousand three hundred dollars.

For the compensation of representatives, a sum not exceeding seventy-two thousand four hundred dollars.

For the salaries of the clerks of the senate and house of representatives, including the compensation of such assistants as they may appoint, four thousand dollars. Clerks.

For the salaries of the chaplains of the senate and house of representatives, four hundred dollars. Chaplains.

For newspapers ordered by the sergeant-at-arms in conformity with orders of the two houses of the general court, at the present session, a sum not exceeding four thousand five hundred dollars: *provided*, that the bills therefor shall be audited by the auditor, and shall likewise be approved in accordance with the provisions of the resolves of the year one thousand eight hundred and fifty-seven, chapter nineteen. Newspapers.

For postage upon newspapers ordered by the sergeant-at-arms in conformity with orders of the two houses of the general court, a sum not exceeding three hundred dollars. Postage.

For fees of witnesses summoned before committees, in accordance with the provisions of the acts of one thousand eight hundred and forty-nine, chapter two hundred and eight, a sum not exceeding five hundred dollars: *provided*, that no part of such sum shall be paid to any witness summoned before any committee which did not have authority to send for persons and papers; and all accounts of such fees shall be endorsed with the written approval of a majority of the members of the committee. Witnesses.

For the compensation of the preacher of the election sermon, fifty dollars. Preacher.

For stationery for the senate, purchased by the clerk of the senate, a sum not exceeding one thousand one hundred dollars. Stationery for legislature.

For stationery for the house of representatives, purchased by the clerk of the house of representatives, a sum not exceeding two thousand dollars.

For the state library, in accordance with the resolves of one thousand eight hundred and fifty-seven, chapter forty-nine, two thousand three hundred dollars, to be expended under the direction of the trustees and librarian; and all sums required for the completion of the catalogue shall be paid from this appropriation. Library.

For the salary of the chief justice of the court of common pleas, two thousand seven hundred dollars. Justices court of common pleas.

For the salaries of six associate justices of said court, two thousand five hundred dollars each—fifteen thousand dollars.

Attorney-general For the salary of the attorney-general, two thousand five hundred dollars.

Reporter. For the salary of the reporter of the decisions of the supreme judicial court, three hundred dollars.

Attorney-general's clerk, &c. For clerk hire for the attorney-general, a sum not exceeding one thousand dollars.

For the incidental expenses of the office of the attorney-general, a sum not exceeding one hundred dollars.

Secretary. For the salary of the secretary of the Commonwealth, two thousand dollars; and said secretary shall pay into the treasury all fees received by him.

Clerks, &c. For the salary of the first clerk in the secretary's office, one thousand five hundred dollars.

For the salary of the second clerk in the secretary's office, one thousand two hundred dollars.

For such additional clerical assistance as the secretary may find necessary for the performance of the duties of the office, a sum not exceeding fourteen thousand dollars: *provided*, that no clerk shall receive more than one thousand one hundred dollars during the year, except the first and second clerks aforesaid.

For incidental expenses of the secretary's office, a sum not exceeding three thousand two hundred dollars.

Treasurer. For the salary of the treasurer and receiver-general, two thousand dollars.

Clerks, &c. For the salary of the first clerk in the treasurer's office, one thousand five hundred dollars.

For the salary of the second clerk in the treasurer's office, one thousand two hundred dollars.

For incidental expenses of the treasurer's office, a sum not exceeding three hundred dollars.

Auditor. For the salary of the auditor of accounts, two thousand dollars.

Clerk, &c. For the salary of the clerk of the auditor of accounts, one thousand two hundred dollars.

For incidental expenses of the auditor's office, a sum not exceeding one hundred and fifty dollars.

Sergeant-at-arms. For the salary of the sergeant-at-arms, in addition to the rent of the house belonging to the Commonwealth, numbered twelve in Hancock Street, in the city of Boston, one thousand three hundred dollars.

Fuel and lights. For fuel and lights for the state house, a sum not exceeding two thousand dollars; and such sum shall be disbursed under the direction of the commission provided in the acts

of the year one thousand eight hundred and fifty-seven, chapter sixty-five; and chapter fifty-seven of the resolves of the year one thousand eight hundred and fifty-five, is hereby repealed.

Repeal.

For repairs, improvements and furniture of the state house, to be disbursed in the manner provided in the acts of the year one thousand eight hundred and fifty-seven, chapter sixty-five, a sum not exceeding one thousand dollars.

Repairs, &c.

For contingent expenses of the council, senate and house of representatives, to be disbursed in the manner provided in the acts of the year one thousand eight hundred and fifty-seven, chapter sixty-five, a sum not exceeding one thousand five hundred dollars: *provided*, that no part of such sum shall be expended for stationery, postage, printing, repairs, or furniture, or for the purchase of any article or thing, or to effect any object, for which an appropriation is otherwise made in this act, or in any act which may have been passed subsequently.

Contingent expenses.

Proviso.

For postage, printing and stationery, for the governor and council, a sum not exceeding five hundred dollars.

Postage.

For printing and binding, ordered by the senate or house of representatives, or by the concurrent order of the two branches, in accordance with the fifteenth of the joint rules and orders of the two branches, a sum not exceeding fifteen thousand dollars.

Printing, &c., for legislature.

For printing blanks and circulars, and the calendar of orders of the day, required for the use of the senate, under the direction of the clerk of the senate, a sum not exceeding four hundred dollars.

For printing blanks and circulars, and the calendar of orders of the day, required for the use of the house of representatives, under the direction of the clerk of the house of representatives, a sum not exceeding seven hundred dollars.

For printing the public series of documents in the last quarter of the year one thousand eight hundred and fifty-eight, under the direction of the secretary of the Commonwealth, according to the acts of the year one thousand eight hundred and fifty-seven, chapter forty, and for binding the copies to be distributed to the towns and cities, as provided in said act, a sum not exceeding five thousand dollars.

Printing public documents.

To the sheriffs of the several counties, for distributing blanks and making returns of votes, in accordance with the Revised Statutes, chapter six, section ten, a sum not exceeding eight hundred dollars.

Sheriffs.

For the mileage and compensation of the bank commis-

Bank Com'rs.

sioners, a sum not exceeding five thousand eight hundred dollars.

Clerk, &c. For the salary of the clerk of the bank commissioners, one thousand two hundred dollars.

For the incidental expenses of the bank commissioners, a sum not exceeding one hundred dollars.

Back Bay Commissioners, &c. For the compensation of the commissioners on the Back Bay, a sum not exceeding one thousand five hundred dollars; and for the incidental expenses of said commissioners, a sum not exceeding five hundred dollars; said sums to be paid from the moiety of the proceeds of sales already made, which, by the resolves of the year one thousand eight hundred and fifty-seven, chapter seventy, is applicable to improvements; and the residue of said moiety shall be subject to the provisions of said chapter seventy.

CHARITABLE.

Perkins Institution. For the Perkins Institution and Massachusetts Asylum for the Blind, in accordance with the resolves of the year one thousand eight hundred and fifty-five, chapter sixty-two, twelve thousand dollars.

School for Idiots, &c. For the Massachusetts School for Idiotic and Feeble-minded Youth, in accordance with the resolves of the year one thousand eight hundred and fifty-one, chapter forty-four, five thousand dollars.

Deaf and dumb. For the support of patients from Massachusetts in the asylum for the deaf and dumb, at Hartford, in the state of Connecticut, a sum not exceeding eight thousand six hundred dollars.

Hospitals—Worcester, For the salaries of the officers of the lunatic hospital at Worcester, three thousand four hundred dollars.

Taunton, For the salaries of the officers of the lunatic hospital at Taunton, three thousand two hundred and twenty-five dollars.

Northampton. For the salary of the superintendent of the lunatic hospital at Northampton, a sum not exceeding one thousand eight hundred dollars.

Annuities, Martha Johonnot. For the annuities due from the Commonwealth, in respect to the obligations incurred by the acceptance of the bequests of the late Martha Johonnot, a sum not exceeding one thousand six hundred and forty dollars.

Coroners. For the expenses of coroners' inquests, a sum not exceeding one thousand dollars.

Pensions For pensions, a sum not exceeding five hundred dollars.

For Indians, a sum not exceeding three thousand three hundred dollars. Indians.

For the current expenses of the state almshouse at Tewksbury, for the quarter ending March thirty-first, in the year one thousand eight hundred and fifty-eight, a sum not exceeding twelve thousand dollars. Almshouses—
Tewksbury.

For the current expenses of the state almshouse at Monson, for the quarter ending March thirty-first, in the year one thousand eight hundred and fifty-eight, a sum not exceeding eleven thousand dollars. Monson,

For the current expenses of the state almshouse at Bridgewater, for the quarter ending March thirty-first, in the year one thousand eight hundred and fifty-eight, a sum not exceeding nine thousand dollars. Bridgewater.

For the current expenses of the Hospital at Rainsford Island, for the quarter ending March thirty-first, in the year one thousand eight hundred and fifty-eight, a sum not exceeding seven thousand five hundred dollars. Hospital—Rains-
ford Island.

For the support and relief of state paupers otherwise than in the three almshouses and in the hospital at Rainsford Island, a sum not exceeding sixty thousand dollars. Other state pau-
pers.

To the sinking fund, for the redemption of the scrip issued to obtain means for building the state almshouses, six thousand dollars. Almshouse sink-
ing fund.

SCIENTIFIC AND EDUCATIONAL.

For corrections in the plates of the state map, in accordance with the resolves of the year one thousand eight hundred and fifty-seven, chapter eighty-two, a sum not exceeding one hundred dollars. State map.

For bounties to agricultural societies, eleven thousand eight hundred fifteen dollars. Bounties.

To the American Institute of Instruction, three hundred dollars, to be paid from the moiety of the income of the school fund which is applicable to educational purposes. American Insti-
tute of Instruc-
tion.

For the salary of the secretary of the board of education, two thousand dollars. Secretary board
of education and
assistant, &c.

For the salary of the assistant-secretary of the board of education, one thousand three hundred dollars; and such salaries of the secretary and assistant-secretary, shall be paid from the moiety of the income of the school fund which is applicable to educational purposes.

For additional assistance in the library, in accordance with the resolves of the year one thousand eight hundred Library.

and fifty-seven, chapter forty-nine, a sum not exceeding five hundred dollars.

Secretary and members board of agriculture. For the salary of the secretary of the state board of agriculture, one thousand five hundred dollars.

For the travelling expenses of members of the said board, a sum not exceeding one thousand dollars.

For the travelling expenses of the secretary of said board, all postages and other necessary expenses, in accordance with the resolves of the year one thousand eight hundred and fifty-three, chapter sixty-seven, a sum not exceeding two hundred and fifty dollars.

For other incidental expenses of said board, a sum not exceeding fifty dollars.

Clerk. For the salary of the clerk of the secretary of said board, six hundred dollars.

MILITARY.

Adjutant-general. For the salary of the adjutant and quartermaster-general, one thousand eight hundred dollars.

Clerk, &c. For the salary of the clerk of the adjutant-general, one thousand dollars.

For the incidental expenses of the office of the adjutant-general, a sum not exceeding one hundred dollars.

REFORMATORY AND CORRECTIONAL.

Fugitives. For the expenses of the arrest of fugitives from justice, a sum not exceeding one thousand five hundred dollars.

Discharged Convicts. For the relief of discharged convicts, to be disbursed in accordance with the provisions of the acts of the year one thousand eight hundred and fifty-two, chapter two hundred and thirteen, a sum not exceeding one thousand dollars, including five hundred dollars paid to the agent for the relief of discharged convicts, as his salary.

Reform School, Westborough. For the current expenses of the State Reform School for Boys, at Westborough, a sum not exceeding forty-four thousand dollars.

Industrial, Lancaster. For the current expenses of the State Industrial School for Girls, at Lancaster, a sum not exceeding thirteen thousand dollars.

How construed. SECTION 2. Nothing in this act shall be construed to require any payments to any person with whom the Commonwealth has an unadjusted account; but it shall be the duty of the governor, upon receiving satisfactory information that any moneys are illegally withheld from the

Commonwealth by any such person, to instruct the treasurer to withhold all payments of money to such person, while such default continues.

SECTION 3. All salaries mentioned in this act shall be paid quarter-yearly, on the first days of April, July, October and January, and shall be in full for all services rendered to the Commonwealth by the persons to whom they are paid; and no salary shall be paid to any person for a longer period than that during which he shall have been actually employed in the duties of the office to which the salary is attached; and no person shall receive two or more salaries from the state treasury at the same time. Salaries to be paid quarterly.

SECTION 4. In case any salary mentioned in this act shall be diminished by due authority, no more money shall be paid under the appropriation herein made, than the amount of such diminished salary when duly established. Reduced salaries.

SECTION 5. The term "incidental expenses," wherever it is employed in this act, shall be held to include postage, printing and stationery, the necessary charges for which shall be defrayed in each department as a part of the expenses of the department, in accordance with the appropriations herein provided. Incidental expenses.

SECTION 6. In case any appropriation is made in this act for a service or object for which a larger or different appropriation may have been made in some previous act or resolve, the appropriation made in this act shall be held to supersede the other, and so much of the previous act or resolve as provides the larger or different appropriation, is hereby repealed. Repeal.

SECTION 7. It shall be the duty of the auditor to scrutinize all accounts which may be presented for allowance in accordance with the provisions of the acts of the year one thousand eight hundred and forty-nine, chapter fifty-six, as well accounts for services or objects for which definite appropriations are made, as those for which the appropriations are made in the form of an amount not exceeding a certain sum; and he shall have full authority to deduct overcharges in all cases in which he finds them; and it shall be the duty of all public functionaries charged with the execution of any service for which an appropriation is made, to use every effort to accomplish the same for a less sum than the amount of the appropriation, whenever it can be done conformably to the interests of the Commonwealth; and no public functionary shall make any purchases or incur any liabilities in the name of the Commonwealth, for a larger amount than that which has been appropriated by law for the service or object; and it is hereby enacted and declared Auditor.

that the Commonwealth has no responsibility for the acts of its servants and officers, beyond the several amounts duly appropriated by law.

Payments, how made, &c.

SECTION 8. All payments authorized by this act, shall be made from the ordinary revenue, except in cases in which another provision is herein expressly made.

Repeal.

SECTION 9. All acts and parts of acts, all provisions of law whatsoever, resolves and parts of resolves, customs, traditions, usages and prescriptions, which are inconsistent with the provisions of this act (excepting only such as may be contained in the constitution of the United States, the constitution of the Commonwealth of Massachusetts and the first chapter of the acts of the present year) are hereby repealed, abrogated and annulled.

SECTION 10. This act shall take effect from and after its passage.

Approved February 12, 1858.

Chap. 12.

AN ACT RELATING TO THE STATE LUNATIC HOSPITALS.

Be it enacted, §c., as follows :

Annual meetings, when to be held.

The trustees of the state lunatic hospitals shall hold their annual meetings between the first and fifteenth days of October, in each year, at which time the treasurers shall present their annual reports made up to the thirtieth day of September, inclusive.

Approved February 13, 1858.

Chap. 13.

AN ACT CONCERNING THE BOSTON AND NEW YORK CENTRAL RAILROAD COMPANY.

Be it enacted, §c., as follows :

Time for construction extended.

The time within which the Boston and New York Central Railroad Company may construct that portion of their railroad which was originally incorporated as the Southbridge and Blackstone Railroad Company, is hereby extended to May first, eighteen hundred and fifty-nine: *provided, however*, that any person or persons whose land or other property has been taken by said railroad company, shall have one year in addition to the time now allowed by law, to avail himself or themselves of the remedies provided in the thirty-ninth chapter of the Revised Statutes.

Approved February 13, 1858.

Chap. 14.

AN ACT IN RELATION TO THE INSTITUTION FOR SAVINGS IN NEWBURYPORT AND ITS VICINITY.

Be it enacted, §c., as follows :

Treasurer to be elected by trustees.

SECTION 1. The treasurer of the institution for savings in Newburyport and its vicinity, shall hereafter be elected by the trustees thereof.

SECTION 2. So much of the act incorporating said institution as is inconsistent herewith, is hereby repealed.

Approved February 13, 1858.

AN ACT CONCERNING THE BROADWAY RAILROAD COMPANY.

Chap. 15.

Be it enacted, &c., as follows :

SECTION 1. The time within which the Broadway Railroad Company is required, by the eleventh section of the four hundred and forty-fourth chapter of the acts of eighteen hundred and fifty-four, to pay in ten per cent. of its capital stock, is hereby extended for the period of six months from the passage of this act. The existence of said corporation shall continue for the period limited in the thirteenth section of said four hundred and forty-fourth chapter, subject to the provisions of said chapter; of the two hundred and sixteenth chapter of the acts of eighteen hundred and fifty-seven, and of this act.

Time for paying in ten per cent. of capital stock extended.

SECTION 2. Said corporation is hereby authorized to increase its capital stock by an amount not exceeding one hundred thousand dollars, to be divided into shares of fifty dollars each: *provided*, that no shares shall be issued for a less sum, to be actually paid in, than the par value thereof; *provided, also*, that this act shall not go into operation until it shall be assented to by the city of Boston.

May increase capital stock.

Proviso.

Approved February 13, 1858.

AN ACT TO AUTHORIZE THE HEIRS OF JOHN BLACK TO EXTEND THEIR WHARF.

Chap. 16.

Be it enacted, &c., as follows :

SECTION 1. The heirs of John Black, proprietors of Black's wharf, so called, in Chelsea, are hereby authorized to extend their wharf in a southerly direction, to the commissioners' line: *provided, however*, that this act shall not in any manner interfere with the legal rights of any person or persons whatever; and *provided, also*, that said extension shall be built on piles.

May extend wharf.

Proviso.

SECTION 2. This act shall take effect from and after its passage.

Approved February 13, 1858.

AN ACT TO INCORPORATE THE DORCHESTER FIRE INSURANCE COMPANY.

Chap. 17.

Be it enacted, &c., as follows :

SECTION 1. Asaph Churchill, John H. Robinson, Charles A. Wood, their associates, successors and assigns, are hereby made a corporation, for the term of twenty years from the passage of this act, by the name of the Dorchester Fire

Corporators.

Duration.

Location. Insurance Company, to be established in the town of Dorchester, and county of Norfolk, for the purpose of making insurance against losses by fire; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in any and all statutes or general laws of this Commonwealth which are now, or may hereafter be in force relative to insurance companies.

Purpose. SECTION 2. The said corporation shall have a capital stock of fifty thousand dollars, divided into shares of one hundred dollars each, with liberty to pay in and increase the same to an amount not exceeding one hundred thousand dollars, and to hold real and personal estate for its use, not exceeding ten thousand dollars. *Approved February 13, 1858.*

Privileges, restrictions, &c.

Capital stock \$50,000.
Shares \$100 each.

Real estate \$10,000.

Chap. 18. AN ACT TO CONFIRM THE TRANSFER OF THE FRANCHISE OF THE SAUGUS BRANCH RAILROAD COMPANY TO THE EASTERN RAILROAD COMPANY.

Be it enacted, §c., as follows :

Transfer and sale confirmed.

SECTION 1. The transfer and sale heretofore made by the Saugus Branch Railroad Company, of its franchise, rights and property, to the Eastern Railroad Company, in accordance with the provisions of the one hundred and sixty-fourth chapter of the acts of the year eighteen hundred and fifty-two, are hereby confirmed; and said Eastern Railroad Company shall have all the powers and privileges, and be subject to all the duties and liabilities, set forth in the act of incorporation of said Saugus Branch Railroad Company, and the several acts in addition thereto.

Privileges, restrictions, &c.

SECTION 2. This act shall take effect from and after its passage. *Approved February 13, 1858.*

Chap. 19. AN ACT CONCERNING THE MILLBURY AND SOUTHBIDGE RAILROAD COMPANY.

Be it enacted, §c., as follows :

Time for completion extended two years.

SECTION 1. The time within which the Millbury and Southbridge Railroad Company may complete their railroad, is hereby extended two years from the time now allowed by law.

SECTION 2. This act shall take effect from and after its passage. *Approved February 13, 1858.*

Chap. 20. AN ACT TO EXTEND THE TIME WITHIN WHICH TO LOCATE AND CONSTRUCT THE NEW YORK AND BOSTON RAILROAD.

Be it enacted, §c., as follows :

Time for locating, &c., extended two years.

SECTION 1. The time for locating and constructing the New York and Boston Railroad, is hereby extended two years beyond the time now required by law.

SECTION 2. This act shall take effect on and after its passage. *Approved February 13, 1858.*

AN ACT TO AUTHORIZE HENRY A. POTTER AND OTHERS TO MAINTAIN
AND EXTEND THEIR WHARF. *Chap. 21.*

Be it enacted, &c., as follows:

SECTION 1. Henry A. Potter, Moses Gilbert and Benjamin Potter, Jr., proprietors of Potter's wharf, so called, in Marblehead, are hereby authorized to maintain said wharf, and to widen it sixteen feet on the eastern side, and sixty feet on the western side thereof; and they shall have the right to lay vessels at the end and sides of said wharf, and to receive wharfage and dockage therefor: *provided, however,* that this act shall not in any way interfere with the legal rights of any person or persons whatever. *May widen wharf*
Rights, &c.
Proviso.

SECTION 2. This act shall take effect from and after its passage.

Approved February 13, 1858.

AN ACT MAKING AN APPROPRIATION FOR THE EMERGENCY FUND. *Chap. 22.*

Be it enacted, &c., as follows:

There is hereby appropriated the sum of ten thousand dollars, to be designated as the Emergency Fund, which shall be paid out of the treasury of this Commonwealth, from ordinary revenue, on any warrants of the governor which may be drawn from time to time, for such amounts, not exceeding, in the aggregate, ten thousand dollars, as, in the judgment of the governor, by and with the advice and consent of the council, may be necessary for the defense and support of the Commonwealth, and for the protection and preservation of the inhabitants thereof: *provided,* that no part of this sum shall be expended for services or objects for which there are or may be subsisting appropriations contained in any act or resolve which has been or may be passed at the present session of the general court; and an account shall be rendered to the next general court, on or before the fifteenth day of January next, of the manner in which said fund, or any part thereof, has been disbursed. *Emergency Fund \$10,000. How appropriated.*
Proviso.

Approved February 15, 1858.

AN ACT CONCERNING COMPLAINTS BEFORE JUSTICES OF THE PEACE
AND POLICE COURTS. *Chap. 23.*

Be it enacted, &c., as follows:

The provisions of the fourteenth section of the one hundred and thirty-seventh chapter of the Revised Statutes, and of the third section of the thirty-seventh chapter of the acts of the year eighteen hundred and fifty-two, are hereby extended to complaints before justices of the peace or police courts. *Provisions of statutes extended.*
Approved February 15, 1858.

Chap. 24. AN ACT MAKING APPROPRIATIONS TO PAY CERTAIN EXPENSES OF THE YEAR ONE THOUSAND EIGHT HUNDRED AND FIFTY-SEVEN.

Be it enacted, &c., as follows :

Appropriations
authorized.

SECTION 1. The sums hereinafter mentioned are appropriated, and shall be allowed and paid out of the treasury of the Commonwealth, upon the warrants of the governor, to meet certain expenses belonging to the year one thousand eight hundred and fifty-seven, that is to say :

Militia bounty.

For militia bounty, forty-six thousand seven hundred and forty-two dollars and fifty cents.

Printing.

For state printing, four thousand three hundred and fifty-three dollars and forty-six cents.

Plymouth Records.

For printing New Plymouth Records, five thousand nine hundred dollars and thirty-five cents.

Other payments.

For certain other payments for which warrants had been drawn by the governor under existing laws, prior to the passage of the act to establish a better system for the administration of the finances of this Commonwealth, one thousand three hundred and ninety-nine dollars and twenty-three cents.

Court reports.

For term reports, purchased and delivered, one thousand and thirty-nine dollars and twenty-three cents.

Coroners.

For coroners, a sum not exceeding two hundred and fifty dollars.

Sheriffs.

For sheriffs, a sum not exceeding nine hundred and fifty dollars.

Newspapers.

For newspapers, a sum not exceeding one hundred dollars.

Indians.

For Indians, a sum not exceeding fifty dollars.

Celebration.

For the celebration of the seventeenth of June in the year one thousand eight hundred and fifty-seven, a sum not exceeding two thousand four hundred and fifty-eight dollars and fifty-four cents.

County treasurers.

To reimburse to county treasurers two-thirds of the costs of criminal prosecutions, a sum not exceeding thirty-five thousand dollars.

Armories.

For rent of armories, twelve thousand two hundred and seventy-seven dollars and sixteen cents.

Militia officers.

For militia bounty for field and staff officers, two thousand seven hundred dollars.

Military accounts.

For military accounts, four thousand five hundred and fifty-nine dollars and nineteen cents.

Almshouses.

For expenses of state almshouses, a sum not exceeding six thousand dollars.

Payments, how made, &c.

SECTION 2. All of the said payments shall be made from the ordinary revenue of the present year, excepting such,

amounting in the aggregate to one hundred and fifty-nine dollars and fifty cents, as, by law, are payable from other accounts.

SECTION 3. The provisions of the third and eighth sections of the act making appropriations for the maintenance of the government during the current year, shall apply to the appropriations contained in this act. Subject to general appropriation act.

SECTION 4. This act shall take effect from and after its passage.

Approved February 16, 1858.

AN ACT IN ADDITION TO AN ACT ENTITLED "AN ACT TO ESTABLISH THE STATE REFORM SCHOOL." Chap. 25.

Be it enacted, &c., as follows :

The court or justice, authorized by the fourth section of the act to establish the state reform school, to sentence boys to the state reform school, shall ascertain as near as may be, and state in the mittimus, the ages of boys committed to said reform school. Magistrate shall state in mittimus ages of boys committed.

Approved February 19, 1858.

AN ACT RELATING TO THE ESTATES OF DECEASED PAUPERS.

Be it enacted, &c., as follows :

SECTION 1. The provisions of the fifty-fourth chapter of the general laws of the Commonwealth, passed in the year one thousand eight hundred and thirty-seven, and all the rights and remedies thereby conferred on cities and towns as respects the personal property of deceased paupers, shall apply to the real estate and all other property of paupers; and in such case the city or town may sue to recover possession of any such real estate, and make conveyance of the same in due form of law. Act of 1837, chap. 54, shall apply to real estate, &c.

SECTION 2. This act shall take effect from and after its passage.

Approved February 19, 1858.

AN ACT CONCERNING THE LYNN MUTUAL FIRE INSURANCE COMPANY. Chap. 27.

Be it enacted, &c., as follows :

SECTION 1. The Lynn Mutual Fire Insurance Company, in the city of Lynn, is hereby authorized to file a notice of the acceptance of its charter, with the secretary of the Commonwealth, within thirty days from the passage of this act; and the filing of the same, shall have the same effect as if it had been filed agreeably to the requirements of the statutes of this Commonwealth, regulating the business of insurance companies. Notice to be filed with secretary of the Commonwealth

SECTION 2. This act shall take effect from and after its passage.

Approved February 19, 1858.

Chap. 28. AN ACT TO INCORPORATE THE WARREN MUSEUM OF NATURAL HISTORY.
Be it enacted, &c., as follows :

Corporators.	SECTION 1. Jonathan Mason Warren, James Sullivan Warren, Mary Collins Dwight and Emily Warren Appleton, all of Boston, in the county of Suffolk, are hereby made a corporation by the name of the Warren Museum of Natural History, for the purpose of continuing and maintaining the collection of fossils and other curiosities, made by John Collins Warren, late of said Boston, as a museum for public profit and instruction ; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.
Name.	
Purpose.	
Privileges, restrictions, &c.	
Duration.	SECTION 2. Said corporation shall continue during the life of the survivors and survivor of the persons named in the first section, and shall have power to hold real and personal estate, in addition to the collection of fossils and other curiosities, to the amount of fifty thousand dollars, to be devoted to the purposes aforesaid. <i>Approved February 19, 1858.</i>
Real and personal estate \$50,000.	

Chap. 29. AN ACT TO INCORPORATE THE CHELSEA BEACH RAILROAD COMPANY.
Be it enacted, &c., as follows :

Corporators.	SECTION 1. John F. Fenno, Henry W. Dale and John Fenno, their associates and successors, are hereby made a corporation by the name of the Chelsea Beach Railroad Company, with power to construct, maintain and use a railway, with convenient single or double tracks, beginning at the terminus of the Boston and Chelsea Railroad, upon the Boston and Salem turnpike, at the line separating the city of Chelsea from the town of North Chelsea, and from thence over and upon said turnpike, and such other highways in said town of North Chelsea, to that portion of said town known as "Chelsea Beach," as may, from time to time, be fixed and determined by the selectmen of said town, and assented to in writing by said company, which location and assent shall be filed with and recorded by the clerk of said town : <i>provided, however,</i> that no track shall be laid upon said turnpike until the written consent thereto of said turnpike corporation shall have been first obtained. Said company may connect its railway with the railway of said Chelsea Railroad Company, in such manner, and upon such terms as may be mutually agreed upon in writing by said companies : <i>provided, however,</i> that such connection shall be assented to by the mayor and aldermen of the city of Chelsea. Notice of the intended location of such railway shall be given by said selectmen to the owners or occupants of the
Power to construct railway.	
Location.	
Proviso.	
May connect railway.	
Proviso.	
Notice to abutters.	

lands abutting on such turnpike and highways, fourteen days, at least, before the hearing, to show cause, if any they have, why such location should not be made.

SECTION 2. The tracks of said railway shall be laid at such distances from the sidewalks in said town, and the road shall be constructed and maintained in such form and manner, and upon such grade and with such gauge, as the selectmen may in their order fixing the route thereof, prescribe and direct; and whenever said company may desire to alter the grade of said turnpike or highways, so occupied by it, such alteration may be made at its sole expense: *provided*, the same shall be assented to by said selectmen, and also by said turnpike corporation, if such alterations are desired in said turnpike.

Tracks, how laid,
&c.

SECTION 3. Nothing in this act shall be construed to prevent the town authorities of said town, or said turnpike corporation, from taking up any of the public streets traversed by said railway, for the purposes for which they may now lawfully take up the same.

Act not to pre-
vent authorities,
&c.

SECTION 4. Said railway shall be operated and used by said company, with horse-power only, and shall not connect with any other railway on which other power is used. Said selectmen may, at all times, make such regulations as to the rate of speed and mode of use of said tracks, as they may deem to be for the public safety and convenience; and they shall also have the power, at any time after the expiration of one year from the opening of said railway for use, upon any road on which the same may be located, under this act, to order that the whole or any part thereof shall be discontinued; and thereupon the location shall be deemed to be revoked as to such part, and the tracks of said railroad thereon, shall be forthwith removed in conformity with such order, at the expense of said company.

Horse-power
only.

Rate of speed.

Location may be
revoked.

SECTION 5. Said company is hereby authorized to purchase and hold such real estate, within said town, as may be necessary or convenient for the purposes and management of said road, and also to fix, from time to time, such rates of compensation for transporting persons or property as they may think expedient; and shall be entitled to all the rights and privileges, and subject to all the duties, restrictions and liabilities, prescribed in the forty-fourth chapter of the Revised Statutes, so far as the provisions of said chapter are applicable thereto, and all general laws which have been, or may hereafter be passed, relating to horse railroads.

May hold real es-
tate.

Privileges, re-
strictions, &c.

SECTION 6. Said company shall not encumber any portion of said turnpike or highways, not occupied by its tracks, nor

Not to encumber
highways, &c.

Repairs.

Liability for injury.

shall they cross with their railway any railroad at the same level or grade, or otherwise obstruct or alter any such railroad, and shall maintain and keep in repair such portion of said turnpike and highways, respectively, as shall be occupied by its tracks, and shall be liable for any loss or injury that any person may sustain by reason of any carelessness, neglect, or misconduct of its agents or servants in the construction, management, or use of said tracks or road ; and in case any recovery shall be had against said town or turnpike corporation by reason of such defect, want of repair, or use, said company shall be liable to pay to said town or turnpike corporation, respectively, any sum so recovered against them, or either of them, together with all cost, and reasonable expenditures incurred by said town or turnpike corporation, respectively, in the defence of any suit or suits in which such recovery shall be had.

Penalty for obstructing corporation.

Penalty of corporation obstructing.

Capital stock \$100,000, in shares of \$100.

North Chelsea may purchase franchise, &c.

Act void, unless, &c.

SECTION 7. Any person who shall wilfully and maliciously obstruct said company in the use of said road or tracks, or the passing of the cars of said company thereon, or shall aid or abet therein, shall be punished by a fine not exceeding five hundred dollars, or imprisonment in the common jail for a period not exceeding three months. If said company, or its agents or servants, shall wilfully and maliciously obstruct any highway, or the passing of carriages over the same, such company shall be punished by a fine not exceeding five hundred dollars.

SECTION 8. The capital stock of said company shall not exceed one hundred thousand dollars, to be divided into shares of one hundred dollars each ; and no shares shall be issued for a less sum, to be actually paid in on each, than the par value of the shares which shall first be issued.

SECTION 9. The town of North Chelsea may, at any time during the continuance of the charter of said company, and after the expiration of ten years from the opening of any part of said road for use, purchase of said company all its franchise, rights and property, by paying to said company therefor, such a sum as will reimburse to each person who may then be a stockholder therein, the par value of his stock, together with a net profit of ten per cent. per annum, from the time of the transfer of said stock to him on the books of the corporation, deducting the dividends received by said stockholder thereon.

SECTION 10. This act shall be void so far as relates to the right to construct said road in said town, unless the same shall be accepted by the inhabitants of North Chelsea, at a legal town meeting, and unless the same shall be accepted

by said company, and ten per cent. of the capital thereof paid in within one year from the passage of this act.

SECTION 11. The existence of this corporation is hereby limited to the period of fifty years from the passage hereof: *provided, nevertheless*, that the legislature may at any time repeal this act, or limit, restrict, or annul any powers herein granted.

SECTION 12. This act shall take effect from and after its passage.

Approved February 24, 1858.

AN ACT CONCERNING THE SOUTH DANVERS MUTUAL INSURANCE COMPANY.

Chap. 30.

Be it enacted, &c., as follows :

SECTION 1. The South Danvers Mutual Fire Insurance Company, in the town of South Danvers, is hereby authorized to file a notice of the acceptance of its charter, with the secretary of the Commonwealth, within thirty days of the passage of this act; and the filing of the same shall have the same effect as if it had been filed agreeably to the requirements of the statutes of this Commonwealth, regulating the business of insurance companies.

Notice to be filed with secretary of Commonwealth.

SECTION 2. This act shall take effect from and after its passage.

Approved February 24, 1858.

AN ACT RELATING TO COSTS OF CORONERS' AND FIRE INQUESTS.

Chap. 31.

Be it enacted, &c., as follows :

SECTION 1. It shall be the duty of coroners holding inquests under the laws of this Commonwealth, and of justices of the peace holding fire inquests under the provisions of the four hundred and twenty-fourth chapter of the acts of the year eighteen hundred and fifty-four, to return an account of the expenses of such inquests, including their own fees, to the county commissioners of the county within which said inquests shall be held, when said inquests are not held within the county of Suffolk, and to the auditor of the city of Boston, when such inquests are held within the county of Suffolk; and said county commissioners and auditor shall thereupon audit said accounts, and certify to the treasurer of the Commonwealth, or to the treasurer of the county within which said inquests shall be held, as the case may demand, the fees and expenses by said commissioners and auditor deemed just and reasonable; and said treasurers shall thereupon pay to the persons entitled to receive the same, the amounts so certified to them; and no sums shall be paid for expenses of fire or coroners' inquests, except in accordance with the provisions of this act.

Coroners and justices to return expenses of fire inquests to county commissioners, except in Suffolk they shall be made to auditor of city of Boston.

Acc'ts to be audited by said commissioners and auditor, and by them certified to treasurer of Commonwealth or county.

Repeal.

SECTION 2. So much of the eleventh section of the one hundred and forty-first chapter of the Revised Statutes, as provides that all the expenses of the inquisition upon the dead body of a stranger, shall be paid to the coroner, and all other acts and parts of acts inconsistent herewith, are hereby repealed.

Approved February 25, 1858.

Chap. 32.

AN ACT CONCERNING THE RECORDS OF COURTS OF INSOLVENCY.

Be it enacted, &c., as follows :

Proceedings to be
filed but not re-
corded.

SECTION 1. The proceedings in all cases in courts of insolvency shall be deemed matters of record ; but the same shall not be required to be recorded at large, but shall be carefully filed, kept and numbered in the offices of the registers of insolvency respectively, and dockets only, or short memoranda thereof, with the numbers, shall be kept in books by the said registers: *provided*, that the assignment and certificate of discharge, shall be recorded in full.

Proviso.

SECTION 2. This act shall apply to all cases in insolvency, the records whereof are not actually completed.

Repeal.

SECTION 3. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

SECTION 4. This act shall take effect from and after its passage.

Approved February 27, 1858.

Chap. 33.

AN ACT IN ADDITION TO AN ACT ENTITLED "AN ACT RELATING TO THE DESCENT AND DISTRIBUTION OF ESTATES OF INTESTATES."

Be it enacted, &c., as follows :

Estate of widow
to be assigned
same as dower.

In all cases where a widow is entitled to any estate under the provisions of the four hundred and sixth chapter of the acts of the year eighteen hundred and fifty four, said estate may be assigned to her in the same manner as dower may now be assigned by the provisions of the sixtieth chapter of the Revised Statutes.

Approved February 27, 1858.

Chap. 34.

AN ACT TO AMEND THE TWO HUNDRED AND SIXTH CHAPTER OF THE ACTS OF THE YEAR EIGHTEEN HUNDRED AND FIFTY-ONE, TO PROVIDE FURTHER REMEDY FOR CREDITORS.

Be it enacted, &c., as follows :

Act of 1851
amended.

The first section of the two hundred and sixth chapter of the acts of the year eighteen hundred and fifty-one, is hereby amended, by striking out therefrom the words "not residing in this Commonwealth."

Approved February 27, 1858.

Chap. 35.

AN ACT TO INCORPORATE THE EUROPEAN WHARF COMPANY, IN BOSTON.

Be it enacted, &c., as follows :

Corporators.

SECTION 1. Albert Thorndike, Ephraim A. Hall, John H. Welles, their associates and successors, are hereby made

a corporation, by the name of the European Wharf Company, with power to purchase and hold in fee simple, or otherwise, any part, or the whole of the real estate, with all the privileges and appurtenances to the same belonging, southerly of Lewis Street, south-westerly of Marginal Street, and northerly of estate now or formerly of Edwards, Holman and Company, in East Boston; and said corporation may construct docks and wharves, and lay vessels within and at the sides and ends thereof, and receive wharfage and dockage therefor; erect buildings, lay out streets and passage-ways, and improve and manage said property in such manner as to them shall seem expedient, and may sell and convey the same, or any part thereof, and may contract with railroad corporations relative to depot accommodations on the premises, and to the use of their roads for transportation of passengers and merchandise: *provided*, that nothing herein contained shall authorize said corporation to infringe upon the legal rights of any person, or to build any wharf or other structure on the premises not authorized by law.

Name.

Power.

May construct wharves, &c.

Proviso.

SECTION 2. No shares in the capital stock of said corporation, shall be issued for a less sum or amount, to be actually paid in, than the par value of the shares first issued.

Shares not to be issued less than par value.

SECTION 3. Said corporation may, at any legal meeting, agree upon the number of shares, not exceeding ten thousand, into which their capital stock shall be divided, which shares shall be transferable in a book to be kept by the clerk of the corporation for that purpose; and may from time to time assess upon the stockholders such sums of money, not exceeding in the whole one hundred dollars on each share, as may be necessary for the purchase, improvements and management of their estate; and may, in case any stockholder shall neglect to pay any such assessments, cause such of the shares of each stockholder as may be sufficient therefor, to be sold in such manner as said corporation by their by-laws may determine.

Shares not to exceed 10,000.

Assessment of shares.

Penalty.

SECTION 4. Said corporation shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, contained in the forty-fourth chapter of the Revised Statutes, or any other law of this Commonwealth, which applies to similar corporations.

Privileges, restrictions, &c.

SECTION 5. This act shall take effect from and after its passage.

Approved February 27, 1858.

Chap. 36. AN ACT TO INCORPORATE THE CHURCH HOME FOR ORPHAN AND
DESTITUTE CHILDREN.

Be it enacted §c., as follows :

Corporators.	That Manton Eastburn, Alexander H. Vinton, Charles Mason, George M. Randall, John Codman, John Jeffries Junior, William R. Lawrence, John B. Alley, J. Nelson Borland, Otis Daniell, Robert M. Mason, Foster Waterman, Nathan Matthews, and their associates and successors, be,
Name.	and hereby are, incorporated under the name of the Church Home for Orphan and Destitute Children, in
Purpose.	Boston ; for the purpose of providing for such children a home, education, and moral, and religious training, in accordance with the usages of the Protestant Episcopal Church : and said corporation shall have all the powers and
Privileges, restrictions, &c.	privileges, and be subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes : and for the purposes aforesaid the said corporation shall be and is hereby authorized to hold real estate to the
Real and personal estate \$200,000.	amount of fifty thousand dollars, and personal estate to the amount of one hundred and fifty thousand dollars ; with full power to manage, convey and change the investment of the same, from time to time, as to said corporation may seem necessary to secure the purposes aforesaid.

Approved March 1, 1858.

Chap. 37. AN ACT CONCERNING JAILS IN MIDDLESEX COUNTY.

Be it enacted, §c., as follows :

New Jail, Lowell, established.	SECTION 1. The county commissioners for the county of Middlesex, are hereby authorized to establish the new jail, lately erected by them on a lot of land on Thorndike Street, in Lowell, in said county, as one of the jails for the use of said county.
Old Jail discontinued.	SECTION 2. Said commissioners are also authorized to discontinue the old jail, situated on a lot of land on Dutton Street, in said Lowell.
	SECTION 3. This act shall take effect from and after its passage.

Approved March 4, 1858.

Chap. 38. AN ACT IN ADDITION TO "AN ACT TO INCORPORATE THE WEST ROXBURY RAILROAD COMPANY."

Be it enacted, §c., as follows :

Location.	SECTION 1. The West Roxbury Railroad Company is hereby authorized to extend its railway from the line separating the town of West Roxbury and the city of Roxbury, on Center Street, through and over Center Street, in the city of Roxbury, to the southerly end of Lowell Street at its
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junction with Heath Street, in said Roxbury, and there connect with the railway of the Metropolitan Railroad Company: *provided, however*, that such location and connection shall be assented to by the city council of said city of Roxbury. In case of any disagreement as to the mode of connection or the manner, time, or extent of the use of said railways respectively, or the compensation to be paid therefor, the same shall be adjusted and determined by three commissioners to be appointed by the supreme judicial court, upon the petition of either party, and upon notice to the other party, and the award of such commissioners shall be binding until revised by other commissioners to be appointed as aforesaid; but no such revision shall be made within one year after such award, unless the court shall otherwise order. The compensation of such commissioners shall be paid by said companies in equal shares.

Proviso.

If unable to agree, supreme court to appoint commissioners.

Compensation.

SECTION 2. The tracks of said railway shall be laid at such distances from the sidewalks in said city, and the road shall be constructed and maintained in such form and manner, and upon such grade, and with such gauge, as the mayor and aldermen of said city may prescribe and direct; and whenever said company may desire to alter the grade of said streets, so occupied by it, such alteration may be made at its sole expense: *provided*, the same shall be assented to by said mayor and aldermen.

Tracks, how to be laid.

Grade and gauge.

Proviso.

SECTION 3. Nothing in this act shall be construed to prevent the authorities of said city from taking up any of the public streets traversed by said railway, for the purposes for which they may now lawfully take up the same.

Act not to prevent authorities, &c.

SECTION 4. Said railway shall be operated and used by said company, with horse-power only, and shall not connect with any other railway on which other power is used. The mayor and aldermen of said city may, at all times, make such regulations as to the rate of speed, and mode of use of the tracks, as they may deem to be for the public safety and convenience; and they shall also have the power, at any time after the expiration of one year from the opening of said railway for use, upon any street on which the same may be located under this act, to order that the whole or any part thereof shall be discontinued, and thereupon the location shall be deemed to be revoked as to such part; and the tracks of said railway thereon shall be forthwith removed in conformity with such order at the expense of said company.

Horse-power only.

Powers conferred, &c.

SECTION 5. Said company is hereby authorized to purchase and hold such real and personal estate, within said

Real and personal estate.

Rates of fare.

Privileges, restrictions, &c.

Repairs, &c.

Penalty for obstructing, &c.

Roxbury and West Roxbury may purchase franchise, &c.

May lease or sell to Metropolitan Co.

city, as may be necessary or convenient for the purposes and management of said road, and also to fix, from time to time, such rates of compensation for transporting persons or property, as they may think expedient; and shall be entitled to all the rights and privileges, and subject to all the duties, restrictions and liabilities, prescribed in the forty-fourth chapter of the Revised Statutes, so far as the provisions of said chapter are applicable thereto, and all general laws which have been, or may hereafter be passed, relating to horse railroads.

SECTION 6. Said company shall maintain and keep in repair such portion of said streets as shall be occupied by its tracks, and shall not encumber any other portions thereof, and shall be liable for any loss or injury that any person may sustain by reason of any carelessness, neglect, or misconduct of its agents or servants in the construction, management, or use of said railway; and in case any recovery shall be had against said city by reason of such defect, want of repair, or use, said company shall be liable to pay to said city any sum so recovered against it, together with all cost and reasonable expenditures incurred in the defence of any suit or suits in which such recovery shall be had.

SECTION 7. Any person who shall wilfully and maliciously obstruct said company in the use of said railway, or the passing of the cars of said company thereon, or shall aid or abet therein, shall be punished by a fine not exceeding five hundred dollars, or imprisonment in the common jail for a period not exceeding three months. If said company or its agents or servants shall wilfully and maliciously obstruct any highway, or the passing of carriages over the same, such company shall be punished by a fine not exceeding five hundred dollars.

SECTION 8. The city of Roxbury and the town of West Roxbury may at any time during the continuance of the charter of said company, and after the expiration of ten years from the opening of any part of said railway within said city of Roxbury for use, purchase of said company all its franchise, rights and property, by paying to said company therefor, such a sum as will reimburse to each person who may then be a stockholder therein, the par value of his stock, together with a net profit of ten per cent. per annum from the time of the transfer of said stock to him on the books of the corporation, deducting the dividends received by said stockholder thereon.

SECTION 9. The West Roxbury Railroad Company is hereby authorized to lease or sell its franchise, rights and

property, to the Metropolitan Railroad Company in accordance with the agreements made by said companies, dated respectively September third, and October twenty-ninth in the year eighteen hundred and fifty-seven, which agreements are hereby confirmed and assented to, and may be carried into effect by said companies accordingly.

SECTION 10. All acts and parts of acts inconsistent herewith, are hereby repealed. And any authority heretofore given to the West Roxbury Railroad Company to lay a track or tracks in the city of Roxbury, except as herein provided, or to lay a track or tracks in any street in the city of Boston, or to connect the track of the company with the track of the Metropolitan Railroad Company at any point, or in any manner, except as herein provided, is hereby revoked. Repeal, &c.

SECTION 11. This act shall be void, unless assented to by the city council of the city of Roxbury, and the selectmen of the town of West Roxbury. Act void unless, &c.

SECTION 12. This act shall take effect from and after its passage.

Approved March 5, 1858.

AN ACT IN ADDITION TO "AN ACT MAKING APPROPRIATIONS TO PAY CERTAIN EXPENSES OF THE YEAR ONE THOUSAND EIGHT HUNDRED AND FIFTY-SEVEN."

Chap. 39.

Be it enacted, &c., as follows :

SECTION 1. The appropriations contained in chapter twenty-four of the acts of the present year, may be applied to pay any expenses for the objects therein mentioned, incurred prior to the year one thousand eight hundred and fifty-seven, as well as for such as were incurred during that year. Appropriations in ch. 24, to apply retrospectively.

SECTION 2. This act shall take effect from and after its passage.

Approved March 6, 1858.

AN ACT RELATING TO THE TRUSTEE PROCESS.

Chap. 40.

Be it enacted, &c., as follows :

Any dividend due from an assignee of an insolvent debtor, may, after the dividend has been declared, be attached in such assignee's hands, by the trustee process: *provided*, said dividend is not upon a claim for wages, which would not have been attachable in the hands of the original debtor. Dividend in hands of assignee may be attached, &c. Proviso.

Approved March 8, 1858.

Chap. 41. AN ACT TO CONTINUE THE CHARTER OF THE EQUITABLE SAFETY INSURANCE COMPANY.

Be it enacted, &c., as follows :

Act continued.

Duration.

Privileges, restrictions, &c.

Reserved profits, how divided.

Profits may remain with company 20 years, &c.

Profits to be permanent fund.

Profits not to be withdrawn except, &c.

Proviso.

SECTION 1. The Equitable Safety Insurance Company is hereby continued a corporation for the period of twenty years, from and after the expiration of the period originally limited in its act of incorporation; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes, and all other general laws that are now or may hereafter be in force relative to insurance companies.

SECTION 2. The reserved profits which shall be held by said company at the time of the expiration of its present charter, shall be divided among the respective persons and corporations thereto respectively entitled at the time of such expiration.

SECTION 3. It shall be lawful for the said company to agree with any of such persons or corporations, to allow and permit the whole, or any part of such profits, accruing to them respectively, to remain with said company during the period for which the corporation is hereby continued, and to permit such persons or corporations to receive such portion of the future profits of the business of said company, as shall be deemed just and equitable.

SECTION 4. Any of the reserved profits aforesaid, which shall be continued with said company as aforesaid, shall, to the extent thereof, be deemed and taken to be a permanent fund in lieu and stead of the subscription notes provided to be given in and by the eighteenth and succeeding sections of the two hundred and fifty-second chapter of the statutes of the year eighteen hundred and fifty-six.

SECTION 5. No part of the future profits of the business of the said insurance company, and no part of the said reserved profits which shall be permitted to remain with the said company, as aforesaid, shall be withdrawn from the said company except for the payment of losses and expenses; except that the said company may, from time to time, pay to the parties respectively entitled thereto, such sums as shall be received or realized from the investment of such profits; and said company may, from time to time, pay off such reserved profits so left with them as aforesaid, and such portion of their future profits, as the persons or corporations entitled to such reserved profits shall be allowed to receive pursuant to the provisions of the third section of this act: *provided*, such payment shall leave net earned profits with said company, as a permanent fund, to the amount of not less than two hundred thousand dollars.

Approved March 8, 1858.

AN ACT CEDING JURISDICTION TO THE UNITED STATES OVER CERTAIN LANDS AND THEIR APPURTENANCES FOR A LIGHT-KEEPER'S HOUSE, WAREHOUSES AND LANDINGS, IN THE TOWN OF COHASSET. *Chap. 42.*

Be it enacted, &c., as follows :

SECTION 1. That the jurisdiction of such tract of land, and its appurtenances and water-privileges, which the United States of America may purchase, within the town of Cohasset, for the purpose of erecting and establishing a light-keeper's house, warehouse and wharf, and other structures, as a shore establishment for the convenience of Minot's Ledge Light, be and is hereby ceded to the United States of America: *provided, always,* that this Commonwealth shall retain concurrent jurisdiction with the United States, so far that all civil and criminal processes, issued under the authority of this Commonwealth, or any officer thereof, may be executed within the limits of said site, in the same manner as if jurisdiction had not been ceded as aforesaid. Jurisdiction ceded.

SECTION 2. This act shall take effect from and after its passage. Proviso.

Approved March 8, 1858.

AN ACT RELATING TO THE EXEMPTION OF THE PROPERTY OF WIDOWS AND UNMARRIED FEMALES FROM TAXATION. *Chap. 43.*

Be it enacted, &c., as follows :

SECTION 1. The property of any widow or unmarried female, or of any female minor whose father is deceased, to the amount of five hundred dollars, shall be exempted from taxation: *provided,* that the whole estate, real or personal, of such person whose property is so exempted from taxation, does not exceed in value the sum of one thousand dollars, exclusive of property exempted from taxation by existing laws. Property to amount of \$500 exempted.

SECTION 2. Chapter three hundred and fifty-five of the acts of eighteen hundred and fifty-three is hereby repealed. Proviso.

Approved March 8, 1858.

AN ACT TO AMEND THE FORTY-SEVENTH CHAPTER OF THE ACTS OF THE YEAR EIGHTEEN HUNDRED AND FIFTY-SIX, RESPECTING NATURALIZATION. *Chap. 44.*

Be it enacted, &c., as follows :

The first section of the forty-seventh chapter of the acts of eighteen hundred and fifty-six, is hereby amended, by striking out therefrom the words "when held for the transaction of civil business," and by inserting therein the words "and the municipal court of the city of Boston." Act of 1856 amended.

Approved March 8, 1858.

Chap. 45. AN ACT RELATING TO POLICE COURTS AND JUSTICES OF THE PEACE.
Be it enacted, &c., as follows :

Jurisdiction of police courts. SECTION 1. The several police courts of this Commonwealth shall have concurrent jurisdiction, in the several counties where they are established, with the court of common pleas and the municipal court of the city of Boston, of all offences, which may be subject to the penalties of either a fine not exceeding one hundred dollars, or imprisonment in the county jail or house of correction not exceeding one year, or to both of said penalties.

Jurisdiction of justices of the peace. SECTION 2. The several justices of the peace, authorized to hear and determine criminal cases, shall, within their several counties, have jurisdiction of all offences which may be subject to the penalties of either a fine not exceeding fifty dollars, or imprisonment in the county jail or house of correction not exceeding six months, or to both of said penalties.

Not to affect right of appeal. SECTION 3. Nothing contained in this act shall affect the right of appeal of any party from any conviction or judgment rendered by said police courts or justices of the peace, in any complaint or proceeding authorized by this act.

Repeal. Pending suits, &c. SECTION 4. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed; but nothing contained in this act shall affect any complaint or prosecution pending at the time this act shall take effect, or authorize justices of the peace to exercise jurisdiction of offences committed within any city or town, wherein a police court is established.

Approved March 10, 1858.

Chap. 46. AN ACT IN ADDITION TO "AN ACT IN RELATION TO PUBLIC REPORTS AND DOCUMENTS."

Be it enacted, &c., as follows :

Application of act of '57 and of this act defined. SECTION 1. The provisions of chapter forty of the acts of the year one thousand eight hundred and fifty-seven, and of this act, shall apply to reports which, previous to the passage of said chapter forty, were made to the secretary of the Commonwealth, as well as to the reports therein mentioned, with the exception of the returns relating to the registration of births, marriages and deaths, which shall be made at the times and in the manner otherwise provided by law.

Annual statements of secretary, &c., excepted. SECTION 2. The annual statements of the expenses of the offices of the secretary, treasurer, auditor and adjutant-general, shall be excepted from the provisions of the first section of chapter forty of the acts of the year one thousand eight hundred and fifty-seven, and shall not be included in the series of public documents.

Auditor's report. SECTION 3. The annual reports of the auditor of accounts

and of the boards of education and agriculture, and any others which the two houses of the general court may direct by concurrent order, shall be included in the "public" series of documents. The expense of printing the report of the board of education, shall be defrayed as heretofore, from the moiety of the income of the school fund applicable to educational purposes.

Educational and
agricultural re-
ports.

SECTION 4. The number of copies printed, of each of the documents of the public series, shall be one thousand six hundred and fifty: *provided*, that in the case of any particular document of which a larger number may be required, to subserve the public interests, the secretary, by special order, may direct additional copies, not to exceed one thousand in number, to be printed; and he shall include in the annual statement of the expenses of his office, a list of the documents of which he has thus ordered the printing of more than the usual number of copies.

Number printed.

Proviso.

SECTION 5. Not more than three hundred copies of any public document shall be placed by the secretary at the disposal of the public officer, board, or institution whose report it is; and all acts or parts of acts or resolves, authorizing a larger number to be thus bestowed, are hereby repealed.

Number at dispo-
sal of public offi-
cer, &c., making
report.

SECTION 6. The fourth and fifth sections of this act shall not apply to the reports of the boards of education and agriculture. Eight thousand copies of the report of the board of education, and ten thousand copies of the report of the board of agriculture shall be printed, of which twelve hundred copies shall be delivered to the secretary of the Commonwealth, and the remainder shall be distributed in such manner as may be directed by the boards of education and of agriculture respectively. The thirty-third chapter of the resolves of the year one thousand eight hundred and fifty-six is hereby repealed.

Number of re-
ports of boards
of education
and agriculture
to be printed.

Repeal.

SECTION 7. Any act or resolve, passed previous to the enactment of chapter forty of the acts of the year one thousand eight hundred and fifty-seven, which may have authorized the furnishing to any person, library, association or corporation, of the documents printed by order of the legislature, shall be construed to apply only to the "public" series of documents described in said chapter forty, and in this act; and such previous act or resolve shall not apply to the documents printed during the present or subsequent years, under the direct order of either or both branches of the legislature, but such documents shall be distributed only

Act, how con-
strued.

as may be prescribed by the two branches in their rules and orders.

Abstract of railroad returns to be included.

SECTION 8. The annual reports which are received from the railroad corporations shall not be included in the bound volumes of public documents; but only the abstract thereof, prepared by the secretary of the Commonwealth, shall be included in said bound volumes. The annual reports of the railroad corporations shall be filed in separate complete sets, and a complete set, thus filed, shall be furnished to each member of the general court, not later than ten days after the beginning of the session.

Reports of railroads to be filed, &c.

Penalty.

SECTION 9. Any public functionary who shall wilfully neglect any of the requirements of chapter forty of the acts of the year one thousand eight hundred and fifty-seven, or of this act, shall be liable to a penalty of ten dollars for each day that such neglect shall continue.

Sets furnished towns to contain index, declaration independence, &c.

SECTION 10. The public series of documents, which includes the reports last made, when bound for the use of the towns and cities, as is provided in section nine of chapter forty of the acts of the year one thousand eight hundred and fifty-seven, shall be provided with a title page bearing the date of the present year, and with a brief index to the titles of the several documents; and the secretary shall likewise prefix the declaration of independence, the constitution of the United States, and the constitution of the Commonwealth of Massachusetts; and all subsequent volumes shall be prepared from year to year, hereafter, in similar manner.

Repeal.

SECTION 11. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

SECTION 12. This act shall take effect from and after its passage.

Approved March 12, 1858.

Chap. 47.

AN ACT IN RELATION TO ALIMONY.

Be it enacted, &c., as follows :

Alimony powers of S. J. Court.

SECTION 1. The supreme judicial court shall have the same powers for the enforcement of decrees of alimony in divorce, or decrees of allowance in the nature of alimony, or of alimony or other allowance pending suits for divorce, as it has for the enforcement of judgments or decrees in equity; and this enactment shall apply to decrees heretofore, as well as to those hereafter made.

SECTION 2. This act shall take effect from and after its passage.

Approved March 12, 1858.

AN ACT CONCERNING INVESTMENTS OF SAVINGS BANKS AND MUTUAL INSURANCE COMPANIES. *Chap. 48.**Be it enacted, §c., as follows :*

Members of committees and officers of savings banks, and mutual marine, mutual fire and mutual life insurance companies, charged with the duty of investing the funds of their respective institutions, shall not be allowed to borrow the same, nor to be sureties for such loans to others, nor in any manner whatsoever, directly or indirectly, be obligors for moneys borrowed of, or loaned by, their respective institutions.

Officers of savings banks and insurance companies not to borrow funds of company or be sureties for loans, &c.

*Approved March 12, 1858.*AN ACT IN RELATION TO RETURNS BY AGENTS OF FOREIGN INSURANCE COMPANIES. *Chap. 49.**Be it enacted, §c., as follows :*

SECTION 1. Every agent of a foreign insurance company, neglecting to make the returns required by the two hundred and fifty-second chapter of the acts of the year one thousand eight hundred and fifty-six, shall forfeit to the use of the Commonwealth, to be recovered by the treasurer thereof, twenty-five dollars for each neglect; and every agent so neglecting, shall be immediately notified thereof by the treasurer of the Commonwealth; and if said agent shall continue said neglect for ten days after such notice shall have been deposited in the post office, he shall forfeit to the use of the Commonwealth, to be recovered by the treasurer thereof, five hundred dollars for every such neglect: *provided, however,* that no agent shall be held liable to the penalty of twenty-five dollars, imposed in this section, if it shall be made to appear, to the satisfaction of the treasurer of the Commonwealth, that the returns required by the said two hundred and fifty-second chapter were duly made and deposited by said agent, in the post office, properly directed to the insurance commissioners of the Commonwealth, and that there was no neglect on the part of said agent.

Penalty for neglect of agents of foreign insurance companies to make returns &c.

Proviso.

SECTION 2. The fifty-second section of said two hundred and fifty-second chapter of the acts of the year one thousand eight hundred and fifty-six, is hereby repealed: *provided, however,* that this repeal shall not prevent nor affect the recovery of any penalty or forfeiture that has heretofore been incurred thereunder, unless the person who has incurred the same shall, within thirty days after the passage of this act, pay to the treasurer of the Commonwealth, the sum of twenty-five dollars, the penalty imposed by this act, and shall also make it appear to the satisfaction of the treasurer of the Commonwealth, that the neglect, by which such pen

Repeal.

Proviso.

alty or forfeiture was incurred, was occasioned by inadvertence, and not by the wilful default of such person.

SECTION 3. This act shall take effect from and after its passage.

Approved March 12, 1858.

Chap. 50. AN ACT TO INCORPORATE THE PEMBERTON MANUFACTURING COMPANY.

Be it enacted, &c., as follows :

Corporators.

Name.

Purpose.

Location.

Privileges, restrictions, &c.

Real estate,
\$250,000.

Whole capital,
\$700,000.

SECTION 1. George Howe, David Nevins, George D. Howe, and their associates, successors and assigns, are hereby made a corporation, by the name of the Pemberton Manufacturing Company; for the purpose of manufacturing cotton, woolen, linen and silk cloth and yarn, in the city of Lawrence, in the county of Essex; and for this purpose shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes, and the two hundred and seventy-sixth chapter of the acts of the year one thousand eight hundred and fifty-seven.

SECTION 2. The said corporation may hold for the purposes aforesaid, real estate to the amount of two hundred and fifty thousand dollars, and the whole capital stock of said corporation shall not exceed seven hundred thousand dollars; and no shares of said corporation shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued.

Approved March 15, 1858.

Chap. 51. AN ACT TO INCORPORATE THE RUMFORD INSTITUTE, IN WALTHAM.

Be it enacted, &c., as follows :

Corporators.

Name.

Location.

Purpose.

Privileges, restrictions, &c.

Real and personal
estate \$75,000.

Donations, &c.,
to inure to institution.

SECTION 1. F. M. Stone, Eben. Hobbs, Josiah Rutter, Horatio Adams, Isaac Parker, their associates and successors, are hereby made a corporation by the name of Rumford Institute; to be established in the town of Waltham, county of Middlesex, for the purpose of maintaining a library, advancing useful arts and sciences and promoting public instruction, by lectures, discussions or otherwise; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes: and said corporation may hold real and personal estate to the value of seventy-five thousand dollars, to be devoted to the before-named purposes.

SECTION 2. All donations, devises and bequests, of real or personal estate, which heretofore may have been or hereafter may be made, to the Rumford Institute, or to the curators or board of managers thereof, shall inure to the

use and benefit of the corporation hereby created, to be appropriated, however, to the purposes designated in any such donation, devise or bequest.

SECTION 3. This act shall take effect from and after its passage.

Approved March 15, 1858.

AN ACT REGULATING THE SEINING OF MENHADEN IN THE RIVERS OF
THE COMMONWEALTH.

Chap. 52.

Be it enacted, &c., as follows :

SECTION 1. The mayor and aldermen of any city, or the selectmen of any town, situated upon, or adjacent to any river in which the seining of fish is now, or may hereafter by law be prohibited, may, upon the petition of twelve or more legal voters, and after due notice and hearing thereon, grant permission to such persons, upon such condition and with such restrictions as they may see fit, to seine menhaden therein, if, in their judgment, the same is consistent with the public good : *provided, however,* that in all cases where two or more cities or towns are situated upon said waters and interested in said fishery, no action shall be had except upon petition to each of them, and by their concurrent vote.

City and town authorities, upon petition, may, in their discretion, grant permits to seine menhaden.

Proviso.

SECTION 2. If any person, so licensed, shall exceed in any manner the terms of said permission, or violate any of the conditions thereof, he shall be subject to the same penalties as would attach to seining without such license.

Penalty in case, &c.

SECTION 3. Said license may be altered or revoked at any time, by the concurrent action of the municipal authorities granting the same.

License may be revoked.

Approved March 15, 1858.

AN ACT CEDING JURISDICTION OVER CERTAIN LANDS ON POINT OF
ROCKS, IN WESTPORT, TO THE UNITED STATES.

Chap. 53.

Be it enacted, &c., as follows :

SECTION 1. Jurisdiction is hereby ceded and granted to the United States of America, over such lot of land, not exceeding three acres, as may be selected for the construction of a light-house and keeper's dwelling, on Point of Rocks, so called, at the entrance of Westport Harbor, in this Commonwealth : *provided,* that this Commonwealth shall retain concurrent jurisdiction with the United States in and over said lot of land, so far, that all civil and criminal processes, issued under the authority of this Commonwealth, or of any officer thereof, may be executed on any part of said lot of land, or in any building which may be erected thereon, in the same way and manner as if jurisdiction had not been granted as aforesaid.

Jurisdiction ceded.

Proviso.

SECTION 2. This act shall take effect whenever, within

one year after the purchase of said land, a suitable plan thereof shall be filed by the United States, in the office of the secretary of the Commonwealth.

Approved March 15, 1858.

Chap. 54. AN ACT TO AMEND THE THIRTY-FIRST SECTION OF THE TWO HUNDRED AND EIGHTY-FOURTH CHAPTER OF THE ACTS OF THE YEAR EIGHTEEN HUNDRED AND FIFTY-SIX.

Be it enacted, &c., as follows :

Act of 1856
amended.

SECTION 1. So much of the thirty-first section of the two hundred and eighty-fourth chapter of the acts of the year eighteen hundred and fifty-six, as provides that the discharge of an insolvent debtor shall not be granted or valid, unless the debtor shall satisfy the court that he had reasonable cause to believe himself solvent within six months next preceding the filing of the petition by or against him, is hereby repealed.

SECTION 2. This act shall take effect from and after its passage.

Approved March 17, 1858.

Chap. 55. AN ACT TO AMEND THE FOUR HUNDRED AND THIRTY-FIRST CHAPTER OF THE ACTS OF EIGHTEEN HUNDRED AND FIFTY-FIVE, RELATING TO LIENS OF MECHANICS AND OTHERS.

Be it enacted, &c., as follows :

Act of 1855
amended.

SECTION 1. The second section of the four hundred and thirty-first chapter of the acts of the year eighteen hundred and fifty-five, is hereby amended by adding thereto the words following, to wit: "and unless a suit for enforcing such lien shall be commenced within ninety days after the person who may desire to avail himself thereof, shall cease to labor on or furnish materials for such building or structure."

Act not to affect.
Proviso.

SECTION 2. This act shall not affect any suit now pending, nor any such lien now existing: *provided*, that no suit for enforcing such existing lien shall be commenced after ninety days from the passage of this act.

Approved March 17, 1858.

Chap. 56. AN ACT RELATING TO DOWER.

Be it enacted, &c., as follows :

Limitation of
claim for dower.

SECTION 1. No person who now is or may hereafter become a widow, shall be entitled to make any claim for dower, or to commence any action or other proceeding for the recovery thereof, unless such claim be made, or such action or proceeding be commenced within twenty years from the time when the decease of her husband shall have taken place: *provided, however*, that nothing in this act contained shall prevent any widow from claiming her dower, or com-

Proviso.

mencing action or other proceeding for the recovery of the same, within five years from the passage hereof, whatever length of time may have elapsed since her husband's decease ; and *provided, further*, that if, at the time of the husband's decease, his widow was or shall be absent from the Commonwealth, or under twenty-one years of age, or insane, or imprisoned, such widow may make her claim for dower, or commence action or proceeding for the recovery thereof, at any time within twenty years after such disability shall have ceased.

SECTION 2. This act shall take effect from and after its passage.

Approved March 18, 1858.

AN ACT CONCERNING THE CARE OF INFANT CHILDREN OF FEMALE CONVICTS. *Chap. 57.*

Be it enacted, &c., as follows :

SECTION 1. Whenever the mother of any child under the age of eighteen months shall be imprisoned in any house of correction, jail, work-house, or any other place of confinement in this Commonwealth, if she be capable and desirous of taking care of said child, the keeper of said place of imprisonment shall, upon the order of the committing court or magistrate, or of any overseer of the poor, receive said child and place the same under the care and custody of the said mother.

Female convicts may have custody of their children.

SECTION 2. Whenever the board of overseers, inspectors, or other like officers of any such institution, are satisfied that the health and comfort of such child call for its removal, or that for any cause it is expedient that such child should be removed, they shall give notice to the father or other relatives thereof, if either can be found ; and if neither can be found to receive such child, the overseers of the poor of the town in which such child has a legal settlement shall receive the same ; or if the said child has no legal settlement in this Commonwealth, it shall be sent to one of the state almshouses, as by law provided in the case of alien paupers.

Provision for removal of children.

Approved March 18, 1858.

AN ACT IN ADDITION TO AN ACT TO INCORPORATE THE ASSOCIATION FOR THE RELIEF OF AGED INDIGENT FEMALES. *Chap. 58.*

Be it enacted, &c., as follows :

The association for the relief of Aged Indigent Females may take and hold real and personal estate, to an amount not exceeding one hundred and fifty thousand dollars, in addition to the amount which they are now allowed to take

Additional real and personal estate \$150,000.

and hold under their act of incorporation, approved April thirtieth, eighteen hundred and forty-nine.

Approved March 18, 1858.

Chap. 59. AN ACT IN ADDITION TO AN ACT TO INCORPORATE THE SAINT VINCENT'S ORPHAN ASYLUM.

Be it enacted, &c., as follows:

Additional real
and personal es-
tate \$150,000.

SECTION 1. The Saint Vincent's Orphan Asylum is hereby authorized to take and hold real and personal estate, for the purposes of its incorporation, to an amount not exceeding one hundred and fifty thousand dollars, in addition to the amount which the said corporation is now authorized to take and hold.

SECTION 2. This act shall take effect from and after its passage.

Approved March 18, 1858.

Chap. 60. AN ACT TO INCORPORATE THE MIDLAND RAILROAD COMPANY.

Preamble.

WHEREAS, the Boston and New York Central Railroad Company is largely indebted, and has not the pecuniary means to pay its debts or complete its railroad; and whereas the claims against the company, and the liens upon its property are conflicting in their nature, and the decisions upon numerous complicated legal questions will be necessary in order to determine the specific rights and remedies of its creditors, and, in the meantime, the property of the company will greatly deteriorate, and the benefit to the public, for which the company was authorized to appropriate to its use the private property of individuals, will be lost; and whereas the public good requires that said railroad should not remain in its present dangerous condition, but should be completed and made available for public service; and whereas said company has declared its inability to perform its public duties, and has voted to sell its railroad and property to such company as may be incorporated and authorized to purchase and take the same, on the terms hereinafter specified, and which are deemed a reasonable compensation therefor; now therefore,

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

Corporators.

SECTION 1. That Alexander DeWitt, Horatio N. Slater, Joseph W. Clark, Oliver Dean, Abel G. Farwell, Holmes Ammidown, Warren Hunt, William Edwards, Horatio Bigelow, Daniel W. Vaughan, Benjamin T. Reed, Ebenezer Gay, Jacob H. Loud, Woodbridge Odlin, Jesse Murdock, Richard Jenness, William E. Morris, Samuel W. Bates, William Dickinson, Lucian Skinner, Jacob Edwards, Jr.,

Daniel N. Pickering, Isaac Livermore, John B. Alley, and and Edward Haynes, Jr., and their successors, are hereby made a corporation by the name of the Midland Railroad Company; with all the powers and privileges, and subject to all the duties, restrictions and liabilities set forth in the forty-fourth chapter of the Revised Statutes, and in that part of the thirty-ninth chapter of said statutes relating to railroad corporations, and in all statutes which have been or shall be hereafter passed relating to railroad corporations.

Name.

Privileges, restrictions, &c.

SECTION 2. The said Midland Railroad Company may purchase, or take upon the terms and conditions herein specified, the railroad and all the property of the Boston and New York Central Railroad Company, and may complete the said railroad, and equip and run the same; and for the purpose of completing the said railroad, shall have all the rights to which the said Boston and New York Central Railroad Company is now entitled. It shall also be authorized to purchase and take an assignment of any and all debts and claims secured in whole or in part by any mortgage or lien upon the said property, or any part thereof, and any contract, lease, or claim for land damage, which it may deem advisable to carry into effect the provisions of this act, and to hold the same with all the rights and powers of the parties assigning them.

May purchase New York Central Railroad, &c.

SECTION 3. The persons named in the first section of this act, or a major part of them, shall meet and organize in the manner provided in the forty-fourth chapter of the Revised Statutes, within thirty days from the passage of this act; and upon filing with the secretary of the Commonwealth, a record of the organization of the said Midland Railroad Company, and a notice of the acceptance of this act by a majority of the said corporators, the said railroad and all the property of the said Boston and New York Central Railroad Company, shall vest in said Midland Railroad Company, subject however to all existing valid liens, mortgages, or claims for land damages, to be held by them with all the rights and privileges hereinafter provided; and the Boston and New York Central Railroad Company is hereby authorized to make and execute a release of all their rights in and to its said railroad and property; but its neglect or refusal so to do, shall in no way affect or impair the validity of the title of the said Midland Railroad Company to the property hereby granted.

To organize within thirty days.

Record, &c., to be filed with secretary.

Property to vest in Midland Railroad Company.

SECTION 4. The said Midland Railroad Company shall pay for the railroad and property aforesaid, in the manner following:

Railroad, &c., how paid for.

First,—It shall issue an amount of its capital stock, equal, at one hundred dollars per share, to the entire debt of the Boston and New York Central Railroad Company, that is not secured by any valid lien, upon their railroad and property, with interest computed to the day of filing said certificate, as herein provided; and, on demand within one year from the passage of this act, by any of the holders of such debt, shall give to them, on account of said Boston and New York Central Railroad Company, one share of said stock, for every hundred dollars of debt, so held by them respectively.

Secondly,—It shall also issue, in addition, an amount not exceeding six thousand shares of said capital stock, and at the expiration of six months from the filing of said certificate, shall deliver one share of said stock for every four shares of the stock of said Boston and New York Central Railroad Company, to the holders thereof on that day.

May issue preferred stock equal to debt of company.

SECTION 5. The said Midland Railroad Company, for the purpose of purchasing any claims against the Boston and New York Central Railroad Company, secured, either in whole or in part, upon the property so taken, as aforesaid, by said Midland Railroad Company, is hereby authorized to issue an amount of capital stock, to be denominated preferred stock, equal, estimated at one hundred dollars per share, to the debt of said Boston and New York Central Railroad Company, with the interest computed to the day of the filing of said certificate, under the following claims, to wit:

Claims for payment of which preferred stock may be issued.

First,—The amount due to the holders of the mortgage bonds of the said Boston and New York Central Railroad Company which have been sold by said company.

Secondly,—The amount due to persons where the said amounts are secured by a pledge of any property, or where collateral security was given by said company.

Thirdly,—The amount due under the contract of said company with Daniel N. Pickering, made February twenty-second, eighteen hundred and fifty-five, to secure the labor claims.

Fourthly,—The amount due to the guarantors of the contract of H. N. Slater with the Bay State Iron Company for the purchase of iron.

Fifthly,—The amount due under the lease of the East Thompson Railroad Company.

Sixthly,—The amount due, if any shall exist, where the holders thereof have a valid lien, of any other kind, upon any portion of the railroad or property taken as above pro-

vided. And, upon the assignment, by any holder of such debt, of his claim to said Midland Railroad Company, may deliver to such holder, one share of said preferred stock for every hundred dollars of debt so assigned by him.

SECTION 6. The holders of said preferred stock shall be entitled to the first dividends of the net earnings of the railroad of said Midland Railroad Company, to an amount not exceeding six per cent. per annum, per share, payable semi-annually; and after said dividends shall have been made to the holders of said preferred stock, the holders of said stock not preferred shall be entitled to the second dividend of the net earnings of said company, to an amount not exceeding six per cent. per annum, per share, payable semi-annually; and, after dividends shall have been made as aforesaid, if upon any year, there shall remain any surplus, of net earnings, the same shall be divided between the holders of each class of said stock, share and share alike: *provided, however*, that no dividend shall be made on said unpreferred stock, until the amount paid on said preferred stock shall be equal to an annual dividend of six per cent. thereon, from the date of its issue.

Holders of preferred stock to have first dividends.

Surplus, how divided.

Proviso.

SECTION 7. In case the said Midland Railroad Company shall not be able to agree with any of the creditors or shareholders of the Boston and New York Central Railroad Company, as to the number of shares in the capital stock of the said Midland Railroad Company, to which they are entitled under the provisions of this act, then the same shall be determined by three arbitrators, one to be appointed by each of the said parties, and the third by the two so appointed.

In case of disagreement, three arbitrators to decide.

SECTION 8. All persons holding any stock of the Boston and New York Central Railroad Company, or any bond, debt, or claim against the same, in any fiduciary or representative capacity, or as trustee, guardian, executor, or administrator, or by way of pledge or mortgage, are hereby fully authorized to accept the stock to which they are respectively entitled by this act, and to sell any bond, debt, or claim, which the said company is authorized to purchase, as though they held the same absolutely in their own right, and shall hold the new stock or bond which they shall receive, upon the same trusts, and in the same manner, as that which they held originally.

Persons authorized to accept stock, &c.

SECTION 9. The said Midland Railroad Company are hereby authorized to issue one million dollars of bonds, payable in twenty-five years from their date, with six per cent. interest, payable semi-annually, and to mortgage the

Company may issue \$1,000,000 of bonds, &c.

railroad, and all or any of the property obtained by them under this act, or in any other way; and said mortgage may include all the property to be hereafter bought by said company, in which case, all the property thereafter bought by said company, shall be covered by said mortgage, notwithstanding said property shall not be owned by said company at the time of making said mortgage: *provided, however*, that the said company may, from time to time, with the consent of the trustees of said mortgage, dispose of such portions of its property as may become unfit for its use, and purchase such additional property as shall be more convenient therefor. Said mortgage deed shall provide for a sinking fund, of five thousand dollars for the first year, ten thousand for the second year, fifteen thousand for the third year, and twenty thousand for every additional year, until the whole of said mortgage bonds shall be paid; said fund shall be paid over to commissioners to be appointed in said mortgage deed, and they shall invest the same in the purchase of the said Midland Railroad Company mortgage bonds, giving preference to such holder as will sell his bonds for the lowest price. But in case such bonds cannot be bought for at least their par value, then the said commissioners shall invest said sinking fund in such other valid securities as they shall deem best. The said mortgage deed shall also provide that in case a breach shall occur, on the part of the company, of any condition of the mortgage, and shall remain uncured for the space of thirty days after notice to said company of said breach, by the trustees of said mortgage, the supreme judicial court shall have power, upon application of the trustees under said mortgage, by summary process, to give possession, to the said holders of said bonds, of all the property secured by said mortgage. And whenever said bondholders shall obtain possession of said property as aforesaid, they may immediately organize themselves into a company, under the provisions of the forty-fourth chapter of the Revised Statutes, and shall be subject to the general statutes relating to railroad corporations, and shall hold and enjoy the said railroad and property, until the said mortgage bonds and the accruing interest shall have been wholly paid, out of the net earnings of said property, or in some other way; and the record of said mortgage deed, in the registry of deeds for the several counties through which the said railroad passes, shall be deemed sufficient notice thereof.

Mortgage of railroad, &c.
 Proviso.
 Sinking fund.
 Fund payable to commissioners, &c.
 In case of breach of condition of mortgage, supreme judicial court to give possession of road to holders of bonds, upon application of trustees.
 Duty of bondholders.
 Bonds, how appropriated.

SECTION 10. Said bonds shall be appropriated exclusively to completing and equipping the said Midland Railroad, from

Boston to Mechanicsville and Southbridge, and to the purchase of the Norfolk County Railroad bonds, and the claims for damage caused by the taking of land and other property by said Boston and New York Central Railroad Company. And whenever said company shall purchase any of said Norfolk County Railroad bonds, or any of the claims for land damages, it shall have all the rights and remedies of the persons of whom it purchases the same, as hereinafter provided.

SECTION 11. In case the said Midland Railroad Company shall not issue said mortgage bonds, it shall then be authorized to issue ten thousand shares of capital stock, to be denominated seven per cent. preferred stock: *provided*, that the same shall not be issued for a less sum, to be actually paid in, in cash, than the par value of one hundred dollars per share. And said stock shall forever be entitled to an annual dividend of seven dollars per share, payable semi-annually, before any dividend shall be made upon the stock issued under the provisions of the third and fourth sections of this act: *provided, however*, that the said company may purchase any of the mortgage bonds of the Norfolk County Railroad Company, and the said claims for land damages, by giving to the holders thereof, one share of said stock for every hundred dollars of said bonds or claim for land damage so held by them, and assigned to said Midland Railroad Company; and in that case the said company shall have the same rights and remedies, in regard to said bonds and land claims, as the persons of whom it purchased the same.

Preferred stock may be issued in lieu of mortgage bonds.

Proviso.

Stock entitled to dividend of \$7 per share.

Proviso.

SECTION 12. For the purpose of obtaining the money for the said bonds, or said seven per cent. preferred stock, the said Midland Railroad Company is hereby authorized, if it shall deem it expedient, and to such extent as it shall find it necessary, to issue an additional number of shares of the class of preferred stock set forth in the fifth section of this act, sufficient to accomplish the purposes of this section, and may give the same to such holders of the stock issued under the provisions of the fourth section of this act, as shall, for every share of said preferred stock that they may receive, surrender to said company one share of said unpreferred stock in lieu thereof; and shall also purchase of said Midland Railroad Company, and pay for in cash, at the par value thereof, one hundred dollars of the said mortgage bonds of said Midland Railroad Company, or, as the case may be, of the said seven per cent. preferred stock.

Company may issue additional shares of preferred stock, &c.

Bonds to be purchased, &c.

SECTION 13. The said company is hereby authorized to contract with the trustees under said mortgage of said Nor-

May contract with trustees of Norfolk County

R. R. Co. to lease
or run over their
road, &c.

Norfolk County Railroad Company, upon such terms as shall be mutually agreed upon, to lease or to run over with their cars and engines, said Norfolk County Railroad, until the holders of said Norfolk County Railroad mortgage bonds, shall have exchanged the same for the mortgage bonds of the Midland Railroad Company, or until said company shall have in some other way purchased said bonds.

Persons having
claims for land
damages, may
agree, in writing,
with the Midland
Railroad Compa-
ny not to avail
themselves of any
remedies in law,
&c.

SECTION 14. Any persons having such claim for land damages against the Boston and New York Central Railroad Company, as entitles them to any injunction or process in law and equity, are authorized to agree in writing with said Midland Railroad Company, upon such terms and conditions, and for such times, as shall be expressed in their respective agreements, not to avail themselves of any of their said remedies. And such agreement shall not be deemed a waiver of any of their rights to enforce their said remedies at the expiration of the time agreed upon, or upon the breach by said Midland Railroad Company of any of the terms and conditions of said agreement; but the same may then be enforced as fully as if no such agreement had ever been made.

Not to affect lien,
&c., on railroad.

SECTION 15. Nothing herein contained shall in any manner affect any valid lien or mortgage upon the railroad or the property taken by said Midland Railroad Company, or any part thereof, or in any manner prejudice or impair the right of any creditor of the Boston and New York Central Railroad Company, having such lien or mortgage, or a claim for land damages, to enforce the same; nor shall any such creditor, who shall not sell and assign his debt or claim as herein provided, be in any way benefited, nor shall his rights or position be in any way changed or improved, by the assignment to said company of the debt or claim of any other person, or by the assignment of any lease or contract.

Debts, &c., pur-
chased by com-
pany, not to be
considered as
paid, and compa-
ny to have same
rights as party
assigning them.

And no debt, lease, contract, or claim of any kind, which may be purchased by said company as herein provided, shall be considered as paid, cancelled, or discharged, but the company shall hold the same in all respects as, and with all the rights and powers of, the party assigning the same.

Proceedings by
creditor for en-
forcing lien.

And if any creditors of said Boston and New York Central Railroad Company shall commence proceedings for enforcing any lien or mortgage, the said Midland Railroad Company shall have the right, in respect to all debts or claims which may have been assigned to it, to share in the benefits of such lien or mortgage, in the same manner as the creditor assigning the same would have had, and also the right to commence or join in any suits or proceedings which may be

Midland Railroad
Company to have
same rights as
creditors assign-
ing the same,
&c.

necessary for securing or enforcing such rights, or for obtaining and sharing the benefits of such lien or mortgage. And said company shall also have the right, at any time, in its own name, and for its own benefit and protection, to institute such suits and proceedings as may be necessary for enforcing and obtaining the benefit of any debt, claim, lease, contract, claim for land damages, or any lien, mortgage, or other right, which it may have purchased or had assigned to it, as herein provided. And said Midland Railroad Company shall have all the rights, in respect to any mortgage bonds which may be assigned to it, as herein provided, which any other bond holders may have, to participate in the choice of trustees, or in any other proceedings or measures which may be adopted for the common benefit of such bond holders; and whenever any payment or dividend shall be made to any bond holders or other creditors having such liens or mortgage, from the income or sale of the property mortgaged, or on which such lien exists, the company shall be entitled to a *pro rata* dividend or payment upon all claims, debts or bonds of a like class, which may have been assigned to it.

Company may institute suits, &c.

Company to have same rights in respect to mortgage bonds assigned to it, as other bond holders.

Company holding bonds to have *pro rata* dividends with other bond holders.

SECTION 16. In case the said Midland Railroad Company shall make a mortgage, as above provided, to raise money for the completion of the railroad, and for the purchase of the Norfolk County Railroad bonds, and the claims for land damages, it shall have the right to assign and transfer to the trustees under said mortgage, for the benefit of the bond holders, any and all debts, bonds, contracts, leases, and claims for land damages, which may then have been or shall thereafter be purchased and assigned to said company, as herein provided, with all the rights, liens and securities for the same; and the said trustees shall have all the rights, in respect to the same, which are herein given and secured, to the said company, and may, in the same manner, exercise and enforce the same. But said Midland Railroad Company shall have no right to assign or transfer said debts, bonds, claims, liens, rights and securities, or any part thereof, to any other person except said trustees.

Midland Railroad Company may assign its mortgage to trustees for benefit of bond holders.

SECTION 17. The said corporators mentioned in the first section of this act, whenever they shall have issued four thousand shares of the capital stock of said Midland Railroad Company, under the provisions of this act, shall call a meeting of the said stockholders, to be holden in Boston, by publishing in some paper printed in Boston, a notice thereof, seven days before said meeting shall be held, at which meeting all the then stockholders may vote in adopting the by-

Meeting to be called when 4,000 shares of capital stock have been issued.

Notice to be published.

laws of the company, the election of a new board of directors, and the transaction of such other business as shall properly come before them.

Act not accepted, &c., Boston and New York Central Railroad Co. or any creditor of same may apply to judge of insolvency to commence proceedings, &c.

SECTION 18. In case a majority of the said persons named in the first section of this act, shall not accept this act, and file with the secretary of the Commonwealth the certificate thereof, within sixty days from the passage of this act, then the said Boston and New York Central Railroad Company, or any creditor of the same, may apply to the judge of insolvency for the county of Suffolk, to the end that the property of the said company may be distributed amongst its creditors; in which case the provisions of the three hundred and twenty-seventh chapter of the acts of the year eighteen hundred and fifty-one, (excepting the twenty-sixth section thereof,) entitled, "An Act to secure the equal distribution of the Property of Insolvent Corporations amongst their Creditors," shall be deemed applicable to said company, and the said judge shall issue such warrants and make such orders and decrees as shall be necessary to carry out the provisions of said act, in relation to the property, creditors and affairs of said company: *provided, however*, that no such said proceedings in insolvency shall in any way affect the rights or remedies of any persons holding any mortgage bonds, claim for land damage, or other liens upon the property of said company.

Proviso.

Supreme judicial court to have full jurisdiction, &c.

SECTION 19. The supreme judicial court shall have full jurisdiction to enforce summarily all the provisions of this act, and to make all such orders and decrees, and issue all such writs and processes, as may be necessary to give it effect, and to put the company hereby incorporated, in possession of the above mentioned railroad and property, and to protect the company in its use and enjoyment.

SECTION 20. This act shall take effect from and after its passage.

Approved March 19, 1858.

Chap. 61. AN ACT TO AMEND "AN ACT IN RELATION TO THE OFFICE OF THE SECRETARY OF THE BOARD OF EDUCATION."

Be it enacted, &c., as follows:

Act of 1849 amended.

So much of the first section of the act entitled, "An Act in relation to the Office of the Secretary of the Board of Education," passed May second, eighteen hundred and forty-nine, as authorizes the expenditure of a sum not exceeding fifty dollars a year, in the purchase of rare and valuable works on education, is hereby repealed.

Approved March 17, 1858.

AN ACT IN ADDITION TO AN ACT ENTITLED "AN ACT TO EXEMPT FROM LEVY ON EXECUTION THE HOMESTEAD OF A HOUSEHOLDER." *Chap. 62.*

Be it enacted, &c., as follows :

The fifteenth section of chapter two hundred and ninety-eight of the Acts of eighteen hundred and fifty-seven, is hereby amended by striking out all after the word "estate" where said word first occurs in said section, and substituting the following, to wit: "And if, in their judgment, the premises be of greater value than eight hundred dollars, the said appraisers shall set off to the judgment debtor, so much of the said premises, including the dwelling-house, or such part thereof as shall not exceed the value of eight hundred dollars, as shall appear to them to be of the value of eight hundred dollars; and the residue of the property shall be levied upon, and disposed of, in the same manner as other real estate not exempted by law from levy on execution."

Act of 1857 amended.

Excess of property above \$800 may be levied upon.

Approved March 19, 1858.

AN ACT TO REGULATE THE TAKING OF TERRAPIN IN THE WATERS OF THIS COMMONWEALTH. *Chap. 63.*

Be it enacted, &c., as follows :

SECTION 1. The inhabitants of any town of this Commonwealth are hereby authorized and empowered, at any legal meeting called and held for that purpose, to make and establish by-laws, regulating the taking of terrapin in any of the waters within the limits of said town; said by-laws to be approved by the court of common pleas for the county.

Towns may establish by-laws regulating the taking of terrapin

SECTION 2. The said town may sell or let for such term as may be deemed proper, not exceeding three years, the privilege to take terrapin in any of said waters, or any part thereof, to any person or persons, and upon such terms as may be by said town in said by-laws fixed and established.

May sell or let privileges.

SECTION 3. Any person violating the provisions of any by-laws, established under the authority of this act, shall forfeit and pay a fine of not less than five dollars, and not more than one hundred dollars, for each and every offence, to be recovered by prosecution before any court of competent jurisdiction, one-half of the same to go to the person complaining, and one-half to the county in which the offence was committed.

Penalty for violating by-laws.

Approved March 19, 1858.

AN ACT CONCERNING THE COMMITMENT OF LUNATICS TO HOSPITALS. *Chap. 64.*

Be it enacted, &c., as follows :

SECTION 1. Whenever application is made to any court for the commitment of a lunatic to any lunatic hospital, the person making such application shall file with it a statement

Statement to be filed with application for commitment.

containing the following particulars, as nearly as they can be ascertained:—The civil condition and birthplace of such lunatic; the duration and supposed cause of disease; the previous existence of insanity, or otherwise, in the person or family; the habits of the lunatic in regard to temperance; the disposition, whether suicidal or not; together with any facts showing a settlement or want of settlement; the name and address of some one of the nearest relatives; and if the lunatic be a woman, it shall be stated whether she has any children, and if so, what time has elapsed since the birth of the youngest. And when the applicant is unable to state any of the above particulars, he shall state his inability to do so.

SECTION 2. The statement above provided for, or a copy thereof, shall be transmitted to the superintendent of the hospital, with the order for commitment.

Approved March 19, 1858.

Chap. 65. AN ACT TO INCORPORATE THE BAKER'S POND AND DRAIN FISHING COMPANY.

Be it enacted, &c., as follows :

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

Penalty for fishing without permission.

Act subject to acceptance of town of Yarmouth.

SECTION 1. Wilson V. Baker, Loren Baker, Orlando Baker and Laban Baker, their associates, successors and assigns, are hereby made a corporation, by the name of the Baker's Pond and Drain Fishing Company, in the town of Yarmouth; and are empowered to make a suitable outlet from Baker's Pond, in said town, through their own land, to Bass River, for the purpose of creating an alewife fishery, and are authorized to regulate the same; with all the powers and privileges, and subject to all the liabilities, duties and restrictions, contained in the forty-fourth chapter of the Revised Statutes.

SECTION 2. If any person, without the permission of said corporation, shall take, catch, or haul on shore, any alewives from said Baker's Pond or Drain, or within one hundred yards in any direction from the mouth of said drain, he shall, upon complaint, forfeit a sum not exceeding two dollars, if the quantity so taken is less than one barrel; and if the quantity be more than one barrel, a sum not exceeding five dollars for each barrel of fish so taken, to be recovered in any court proper to try the same.

SECTION 3. This act shall not take effect unless accepted by the town of Yarmouth, at a legal meeting called and held for that purpose, within one year after the passage of this act.

Approved March 22, 1858.

AN ACT TO EXTEND THE TIME TO PAY IN THE INCREASE OF THE CAPITAL OF THE OLD COLONY BANK, IN PLYMOUTH. *Chap. 66.*

Be it enacted, &c., as follows :

The time allowed to the Old Colony Bank, in Plymouth, by the one hundred and eightieth chapter of the acts passed in the year one thousand eight hundred and fifty-seven, for paying in the increase of their capital stock, is hereby extended to the first day of May, in the year one thousand eight hundred and fifty-nine. *Approved March 23, 1858.*

Time for paying in additional capital extended.

AN ACT TO PREVENT THE USE OF BLANKS FOR COUNTERFEITING BANK BILLS, CERTIFICATES AND NOTES. *Chap. 67.*

Be it enacted, &c., as follows :

SECTION 1. Every person who shall commit the crime of larceny, by stealing any printed piece of paper or blank, designed for the purpose of being issued by any incorporated bank or banking company in the United States, as a bank bill, certificate or promissory note, or printed by means of any engraved plate designed for printing such pieces of paper or blanks, with the intent either to utter or pass the same, or to cause or allow the same to be uttered or passed as true, either with or without alteration or addition, and thereby to injure or defraud any person, shall be punished by imprisonment in the state prison for life, or for any term of years.

Larceny of paper or blanks from incorporated banks, &c., with intent to defraud, how punished.

SECTION 2. Every person who, having been employed to print, or having assisted in printing any such printed piece of paper or blank as is mentioned in the preceding section, or having been intrusted with the care or custody of any such printed piece of paper or blank, shall, without the knowledge and consent of the corporation for which the same was printed, retain in his own possession any such printed piece of paper or blank, with the intent either to utter or pass the same, or to cause or allow the same to be uttered or passed as true, either with or without alteration or addition, and thereby to injure or defraud any person or persons, shall be punished by imprisonment in the state prison for life, or for any term of years.

Printers retaining such paper or blanks, &c., with intent to defraud, how punished.

SECTION 3. This act shall take effect from and after its passage.

Approved March 23, 1858.

AN ACT CONCERNING THE MEASUREMENT OF FRUIT AND VEGETABLES. *Chap. 68.*

Be it enacted, &c., as follows :

SECTION 1. The dry measure shall be the sole authorized public standard for measuring all fruits, vegetables and nuts, whenever the same shall be sold by measure; and

Dry measure sole authorized standard.

every person who shall sell any such articles, by any other than by dry measure, shall forfeit and pay a sum not exceeding ten dollars for every such offence, to the use of the city or town in which prosecution is commenced.

Repeal.

SECTION 2. All acts and parts of acts, inconsistent with this act, are repealed.

SECTION 3. This act shall take effect on and after the first day of July next.

Approved March 23, 1858.

Chap. 69.

AN ACT TO INCREASE THE AMOUNT OF SPECIE IN THE COMMONWEALTH.

Be it enacted, &c., as follows :

Each bank to keep specie equal to fifteen per cent. of circulation and deposits.

SECTION 1. Every bank within this Commonwealth shall be required to keep an amount of specie equal to fifteen per centum of its aggregate liability for circulation and deposits ; and whenever, by the weekly or monthly returns required by the three hundred and seventh chapter of the acts of the year eighteen hundred and fifty-four, the weekly average amount of specie in any bank in Boston is less than fifteen per centum of the aggregate liability of said bank for circulation and deposits, or, in any bank out of Boston, or any bank in South Boston redeeming its bills at any other bank, the monthly average amount of specie is less than fifteen per centum of the aggregate liability of said bank for circulation and deposits, it shall be unlawful for any such bank to make new loans or discounts, until the amount of specie in said bank shall be restored to the proportion of fifteen per centum of its aggregate liability for circulation and deposits : *provided*, that banks out of Boston, in the monthly returns required by the three hundred and seventh chapter of the acts of the year eighteen hundred and fifty-four, shall return the monthly average amount of balances in other banks, not bearing interest, which may be applied to the redemption of their bills, and the same shall be considered and deemed as equivalent to specie for the purposes of this act.

Proviso.

Bills not to exceed capital stock

SECTION 2. The amount of bills issued by any bank, shall not, at any one time, exceed the amount of the capital stock of said bank. So much of the eighth section of the thirty-sixth chapter of the Revised Statutes, as relates to the amount of bills which any bank may issue, and all other acts or parts of acts, inconsistent with this section, are hereby repealed.

Repeal.

SECTION 3. This act shall take effect from and after the first day of June next.

Approved March 23, 1858.

AN ACT CONCERNING NOTES PAYABLE ON DEMAND.

Chap. 70.

Be it enacted, &c., as follows :

SECTION 1. The first section of the one hundred and twenty-first chapter of the acts of the year eighteen hundred and thirty-nine, is hereby amended by adding thereto the following words, to wit : “provided that no matter that has arisen, after notice of the endorsement or transfer of such note has been given to the promisor, shall constitute a defence thereto.” Act of 1839 amended.

SECTION 2. The one hundred and ninety-second chapter of the acts of the year eighteen hundred and fifty-seven, is hereby repealed. Repeal.

*Approved March 23, 1858.*AN ACT TO AMEND THE ACT PROVIDING FOR TRIAL BY JURY BEFORE JUSTICES OF THE PEACE, IN CERTAIN CASES. Chap. 71.*Be it enacted, &c., as follows :*

SECTION 1. No party shall be entitled to demand a jury, under the provisions of chapter three hundred and fourteen of the acts of the year eighteen hundred and fifty-two, unless all the parties to said suit shall file a written waiver of all right of appeal from the judgment of the said justice on the verdict of said jury ; and in such case there shall be no right of appeal therefrom. Trial by jury before justice not allowed, unless waiver of right to appeal be filed by parties.

SECTION 2. All acts and parts of acts, so far as the same are inconsistent with this act, are hereby repealed. Repeal.

Approved March 23, 1858.

AN ACT RELATING TO EXECUTORS' BONDS.

Chap. 72.

Be it enacted, &c., as follows :

Any executor shall be exempted from giving a surety or sureties on his official bond, when the testator shall have ordered or requested such exemption, or that no bond should be taken ; and any executor may also be so exempted, when all the persons interested in the estate, who are of full age and legal capacity, other than creditors, shall certify to the judge of probate their consent thereto : *provided, however*, that no executor shall be so exempted, until all creditors of the estate, and the guardian of any minor interested therein, shall have been notified, and had opportunity to show cause against the same ; and *provided, also*, that the judge of probate may, at or after the granting of letters testamentary, require bond with sufficient surety or sureties, if he shall be of opinion that the same is required by a change in the situation or circumstances of the executor, or for other sufficient cause. Executorexempted from giving sureties, when testator has so ordered, &c.

Proviso.Provided, also.*Approved March 24, 1858.*

Chap. 73. AN ACT RELATING TO THE SALE OF PROPERTY OF INSOLVENT DEBTORS.

Be it enacted, &c., as follows :

Sale of perishable property by assignee, pending dispute of title, authorized.

SECTION 1. Whenever it shall appear to the satisfaction of the judge of a court of insolvency, that the title to any portion of an estate, which has come into possession of the assignee by delivery from the messenger or the insolvent debtor, in any case pending before such judge, is in dispute, and that the property is of a perishable nature or liable to deteriorate in value, he may, on the petition of the assignee, and after such notice to the claimant, his agent or attorney, as said judge shall deem reasonable, order the same to be sold, under the direction of the assignee, who shall hold the funds received in place of the estate so disposed of; and the proceeds of such sale shall be considered the measure of the value of the property in any suit or controversy between the parties.

Property recovered by action, &c.

Proviso.

SECTION 2. Nothing in this act contained shall prevent the recovery of the property herein mentioned, from the possession of the assignee by action or replevin: *provided*, the same shall be commenced at any time before the judge shall have ordered a sale as herein provided.

SECTION 3. This act shall take effect from and after its passage.

Approved March 24, 1858.

Chap. 74. AN ACT TO CONTINUE THE CHARTER OF THE NEW ENGLAND MUTUAL MARINE INSURANCE COMPANY.

Be it enacted, &c., as follows :

Act extended.

Duration.

May insure against losses by fire. Privileges, restrictions, &c.

Reserved profits, how divided, &c.

Profits may remain with company, &c.

SECTION 1. The New England Mutual Marine Insurance Company is hereby continued a corporation, for the period of twenty years from and after the expiration of the period originally limited in its act of incorporation, for the purposes mentioned in said act of incorporation, and also with authority to insure against losses by fire; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes, and all other general laws, that are now or may hereafter be in force, relative to insurance companies.

SECTION 2. The reserved profits, which shall be held by said company at the time of the expiration of its present charter, shall be divided among the respective persons and corporations thereto respectively entitled, at the time of such expiration.

SECTION 3. It shall be lawful for the said company, by agreement with any of such persons or corporations, to allow and permit the whole, or any part of such profits, accruing to them respectively, to remain with said company,

during the period for which the corporation is hereby continued, and to permit such persons or corporations to receive such portion of the future profits of the business of said company, as shall be deemed just and equitable.

SECTION 4. Any of the reserved profits aforesaid, which shall be continued with said company as aforesaid, shall, to the extent thereof, be deemed and taken to be a permanent fund, in lieu of the subscription notes provided to be given, in and by the eighteenth and succeeding sections of the two hundred and fifty-second chapter of the statutes of the year eighteen hundred and fifty-six.

Profits continued with company, shall be deemed a permanent fund.

SECTION 5. No part of the future profits arising from the business of the said insurance company, and no part of the said reserved profits, which shall be permitted to remain with the said company as aforesaid, shall be withdrawn from the said company, except for the payment of losses and expenses, except that the said company may, from time to time, pay to the parties respectively entitled thereto, such sums as shall be received or realized from the investment of such profits; and said company may, from time to time, pay off such reserved profits so left with them as aforesaid, and such portion of their future profits as the persons or corporations, entitled to such reserved profits, shall be allowed to receive, pursuant to the provisions of the third section of this act: *provided*, such payment shall leave net earned profits with said company, as a permanent fund, to the amount of not less than two hundred thousand dollars.

Profits not to be withdrawn except, &c.

Proviso.

Approved March 24, 1858.

AN ACT TO AUTHORIZE IGNATIUS SARGENT, GUARDIAN, TO SELL CERTAIN LAND OF HIS WARD.

Chap. 75.

Be it enacted, &c., as follows :

Ignatius Sargent, of Brookline, in the county of Norfolk, guardian of Ignatius Sargent, Junior, of said Brookline, a minor, is hereby authorized to sell, at private sale, and convey to Alpheus Hardy, Horatio Harris and Hugh Montgomery, trustees under the will of Joshua Sears, a parcel of land, part of the estate of his said ward, situate in Boston, and bounded southerly on Franklin Place, ten inches; westerly on land of the said trustees, ninety-three feet eight inches; northerly on land of the said trustees, ten inches, and easterly on the land of his said ward, by a line through the centre of a wall, ninety-three feet eight inches; together with all the interest, if any, of his said ward in that part of the wall standing on the said described land; and to execute and deliver to the said Hardy, Harris and Montgomery, a

Guardian authorized to sell real estate.

Boundary.

Bond to judge of probate.

good and sufficient deed of the same, he, the said Ignatius Sargent, guardian, as aforesaid, first giving bond to the judge of probate for the county of Norfolk, with surety satisfactory to the said judge, to account for the proceeds of the said sale according to law. *Approved March 24, 1858.*

Chap. 76.

AN ACT CONCERNING PROXIES.

Be it enacted, &c., as follows :

Number of votes by, in railroad corporations, limited to fifty, unless, &c.

SECTION 1. No individual, at any meeting of the stockholders of any railroad corporation, shall be allowed, by virtue of any power of attorney, proxy or proxies, held by him, and made by any shareholder, to cast more than fifty votes, unless all the shares represented by such individual, are owned by one person or corporation ; and no director, treasurer or other officer of any railroad corporation, shall be allowed, by virtue of any power of attorney, proxy or proxies, held by him, to cast more than twenty votes.

SECTION 2. The third section of the sixty-eighth chapter of the acts of the year eighteen hundred and forty-three, is hereby repealed. *Approved March 24, 1858.*

Chap. 77. AN ACT CONCERNING THE DISCIPLINE OF JAILS AND HOUSES OF CORRECTION.

Be it enacted, &c., as follows :

Act of 1857 extended to officers of and convicts in jails and houses of correction.

The keepers of the several jails, and the masters of the several houses of correction in this Commonwealth, shall perform all the duties required in the first section of the two hundred and eighty-fourth chapter of the acts of the year eighteen hundred and fifty-seven, to be performed by the warden of the state prison. And the convicts in such jails and houses of correction shall be entitled to all the benefits therein secured to convicts in the state prison, by said act, provided that their terms of imprisonment are not less than four months. *Approved March 24, 1858.*

Chap. 78. AN ACT TO ESTABLISH THE COMPENSATION OF THE LIEUTENANT-GOVERNOR AND THE MEMBERS OF THE EXECUTIVE COUNCIL.

Be it enacted, &c., as follows :

Compensation of members.

SECTION 1. The compensation of the members of the executive council shall be three hundred dollars each, for the regular annual session of their board, held during the session of the legislature, in the year for which they shall have been elected ; and three dollars for each and every day's attendance at every subsequent session of said board, during their term of office.

Mileage.

SECTION 2. The members of said board shall receive two

dollars for every ten miles' travel to and from their respective places of abode, once in each session thereof.

SECTION 3. The lieutenant-governor shall receive mileage as provided in the last section, and double the compensation provided in the first section of this act, for each of the members of the executive council.

Compensation and mileage of lieutenant-governor.

SECTION 4. The compensation and mileage provided in this act for the lieutenant-governor and members of the executive council, shall be paid at the close of each session of their board.

Time of payment.

SECTION 5. All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

Repeal.

SECTION 6. This act shall take effect from and after its passage, and shall apply to the present session of the executive council.

Approved March 24, 1858.

AN ACT TO INCORPORATE THE PROPRIETORS OF THE BOSTON THEATRE.

Chap. 79.

Be it enacted, &c., as follows:

SECTION 1. Franklin Haven, Augustus H. Fiske, Gardner Brewer, Edward C. Bates, and Elijah D. Brigham, their associates and successors, are hereby made a corporation by the name of The Proprietors of the Boston Theatre, for the purpose of purchasing, acquiring, and maintaining, in the city of Boston, a building suitable and convenient for a theatre or opera house; with all the powers and privileges, and subject to all the duties, liabilities and restrictions set forth in the forty-fourth chapter of the Revised Statutes.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

SECTION 2. The capital of the said corporation shall not exceed the sum of three hundred thousand dollars, to be divided into such number of shares as said corporation shall determine: *provided*, that no shares shall be issued for a less sum or amount, to be paid in on each, than the par value of the shares which shall be first issued.

Capital not to exceed \$300,000.

No shares issued under par.

SECTION 3. The said corporation is hereby authorized to purchase the property now held and owned by the Boston Theatre, and in case it shall make such purchase, it shall assume and be liable for the debts of that corporation: *provided*, that the said Boston Theatre shall not be released and discharged from such debts until the same shall be fully paid and satisfied.

May purchase property of Boston Theatre, &c.

Proviso.

SECTION 4. If any ardent spirits, or intoxicating drinks of any kind, shall be sold in said building by said corporation, its agents or lessees, or by persons in its employment, then this act shall be void.

Ardent spirits, &c., not to be sold.

SECTION 5. This act shall take effect from and after its passage.

Approved March 24, 1858.

Chap. 80. AN ACT TO INCORPORATE THE PROPRIETORS OF THE HADLEY FALLS.
Be it enacted, &c., as follows:

Corporators. SECTION 1. Ignatius Sargent, Richard S. Fay, Jonathan I. Bowditch, Chester W. Chapin, William Amory, and William Appleton, their associates, successors and assigns, are hereby made a corporation by the name of the Proprietors of the Hadley Falls, for the purpose of maintaining the dam heretofore erected across the Connecticut River by the Hadley Falls Company, and the locks and canals in connection with said dam, and using the water-power thereby created, for manufacturing articles from cotton, wool, iron, wood and other materials, and selling, demising, or leasing the same to other persons and corporations, to be used for manufacturing and mechanical purposes, and also for the purposes of navigation; and in addition to the powers and privileges, duties, liabilities and restrictions, hereby granted or imposed, shall have all the powers and privileges, and be subject to all the duties, liabilities and restrictions set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes, and in the two hundred and seventy-sixth chapter of the acts of the year one thousand eight hundred and fifty-seven.

Capital not to exceed \$700,000, in shares of \$100 each. SECTION 2. The capital stock of the said corporation shall not exceed seven hundred thousand dollars, to be divided into shares of one hundred dollars each; and no share shall at any time be issued by said corporation for less than one hundred dollars.

May purchase the property of Hadley Falls Company, &c. SECTION 3. The said corporation shall have full power and authority to purchase, take, hold, and receive from the said Hadley Falls Company, all its estate, real and personal, and mixed, with all the water-powers, water-courses, water-privileges, dams, canal, privileges, rights, easements, and appurtenances thereto pertaining or belonging, or therewith connected; and in case it shall so purchase, take or receive the same, the said corporation shall have and possess all the powers and privileges, and be subject to all the duties and liabilities given or granted to, or imposed upon the said Hadley Falls Company in and by an act entitled "An Act to incorporate the Hadley Falls Company," made and passed on the twenty-seventh day of April in the year one thousand eight hundred and forty-eight: and in case the said corporation shall so purchase from said Hadley Falls Company, it shall be liable for all the present debts and liabilities of the said Hadley Falls Company.

Hadley Falls Company, not SECTION 4. Nothing herein contained shall in any way

exempt, release or discharge the said Hadley Falls Company from any of its said debts and liabilities. exempt from debts, &c.

SECTION 5. This act shall take effect from and after its passage.

Approved March 24, 1858.

AN ACT TO EXTEND THE TIME TO PAY IN THE CAPITAL STOCK OF THE HIDE AND LEATHER BANK, IN BOSTON. *Chap. 81.*

Be it enacted &c., as follows :

The time within which the capital stock of the Hide and Leather Bank, in Boston, shall be paid in, as provided in the "Act to incorporate the Hide and Leather Bank, in Boston," is hereby extended to the first day of May, in the year one thousand eight hundred and fifty-nine. Time for paying in capital stock extended.

Approved March 24, 1858.

AN ACT IN RELATION TO THE ASSESSMENT AND COLLECTION OF TAXES. *Chap. 82.*

Be it enacted, &c., as follows :

The fifth section of chapter two hundred and thirty-nine of the acts of eighteen hundred and fifty-six is hereby repealed. Act of 1856 repealed.

Approved March 25, 1858.

AN ACT CONCERNING THE EMPLOYMENT OF CHILDREN IN MANUFACTURING ESTABLISHMENTS. *Chap. 83.*

Be it enacted, &c., as follows :

SECTION 1. No child under twelve years of age shall be employed in any manufacturing establishment, in this Commonwealth, unless such child shall have attended some public or private school, of which the teacher shall have been approved by the school committee of the city or town in which such school shall have been kept, eighteen weeks within the year next preceding the time of such employment, and for the same period during any and every twelve months, in which such child shall be so employed; but the provisions of this act shall not apply to a child who shall have removed into this Commonwealth, from any other state or country, until such child shall have resided six months within this Commonwealth. Children under 12 years, not to be employed unless they attend school eighteen weeks a year.

Act not to apply.

SECTION 2. The owner, agent, or superintendent of any manufacturing establishment in this Commonwealth, who shall employ any child in such establishment, contrary to the provisions of this act, shall forfeit a sum not exceeding fifty dollars, to be recovered by indictment, to the use of the common schools in the town where said establishment may be situated. Penalty.

SECTION 3. All acts and parts of acts, inconsistent with this act, are hereby repealed.

Approved March 25, 1858.

Chap. 84. AN ACT TO ESTABLISH A POLICE COURT IN THE TOWN OF TAUNTON.
Be it enacted, &c., as follows :

Court established SECTION 1. A police court is hereby established in the town of Taunton, to consist of one competent and discreet person as standing justice, and one as special justice, to be appointed and commissioned by the governor, pursuant to the constitution.

Jurisdiction in Taunton. SECTION 2. The said court shall have original and exclusive jurisdiction over all offences committed in said town, whereof justices of the peace or police courts now have or may hereafter have jurisdiction, and, also, original and exclusive jurisdiction over all civil suits and actions, whereof justices of the peace or police courts now have or may hereafter have jurisdiction, whenever all the parties reside in said town. Said court shall have concurrent jurisdiction with justices of the peace, over all offences committed in the county of Bristol, whereof justices of the peace or police courts now have or may hereafter have jurisdiction, and of all suits and actions which are now or may hereafter be within the jurisdiction of justices of the peace or police courts.

Appointment of clerk. SECTION 3. A clerk of said court shall be appointed and commissioned by the governor, who shall faithfully perform all services by law required of the clerks of like courts in this Commonwealth.

Either justice may issue warrants. SECTION 4. Either of the justices of said court may issue warrants in all proper cases. No justice of the peace shall hereafter be allowed any fees for warrants issued in said town, or elsewhere, for offences committed in said town; and all warrants so issued shall be made returnable before said court.

Compensation of justices and clerk. SECTION 5. The fees and costs accruing from criminal prosecutions in said court shall be paid to the standing justice, and out of the same he shall retain for his services the sum of one thousand dollars for each year, and in the same proportion for any part of a year. Said standing justice shall, out of his compensation, pay to the special justice the fees prescribed by law for the services performed by him. The clerk of said court shall be entitled, out of said fees and costs, to the sum of three hundred dollars for his services for each year, and in the same proportion for any part of a year; and he shall also be entitled to the fees for copies. Said justices and clerk shall retain also to their own use the fees received by them for civil business.

Fees, &c. SECTION 6. The standing justice shall, on or before the first day of January in each year, pay to the treasurer of

the county of Bristol, any balance of fees and costs in his hands, and all fines received by him.

SECTION 7. A court shall be held by said standing or special justice in said town, three times each week, and as much oftener as is deemed necessary, for criminal business; and on one day in each week, and oftener if said justices shall see fit, for civil business. The standing justice shall have power to make all proper rules for the conduct of the business of said court.

Court, how often to be held.

SECTION 8. The special justice shall not hear, try and determine any cause in said court, unless the standing justice shall be unable to officiate on account of absence, sickness, bias, interest, or other disability. When the special justice shall officiate, he shall cause to be stated on the record the reason therefor.

When special justice may act.

SECTION 9. Neither of said justices, nor the clerk, shall act as counsel before said court, or in any cause which may have been heard or tried, or is pending in said court.

Justices shall not act as counsel.

SECTION 10. The governor, by and with the advice and consent of the council, shall have power to appoint the said justices and clerk, at any time after the passage of this act.

Appointment of justices and clerk.

SECTION 11. This act shall not affect any cause pending when it shall take effect.

Pending causes.

Approved March 25, 1858.

AN ACT TO ABOLISH THE LAND OFFICE.

Chap. 85.

Be it enacted, &c., as follows:

SECTION 1. The land office, established for the management and sale of land, belonging to this Commonwealth, in the State of Maine, is hereby abolished.

Office abolished.

SECTION 2. The treasurer and receiver-general of the Commonwealth, shall, hereafter, have and exercise all the powers now by law conferred upon, and perform all the duties now by law required of the land agent.

Treasurer to perform all duties.

SECTION 3. The first section of the tenth chapter of the Revised Statutes, the first section of the two hundred and nineteenth chapter of the acts of the year one thousand eight hundred and forty-six, the first and second sections of the one hundred and ninetieth chapter of the acts of the year one thousand eight hundred and fifty-one, and all other acts and parts of acts inconsistent herewith, are hereby repealed: *provided*, that this repeal shall not be construed to revive any acts or parts of acts repealed in or by any of the acts herein referred to.

Repeal.

SECTION 4. This act shall take effect from and after the first day of January, in the year one thousand eight hundred and fifty-nine.

Proviso.

Approved March 25, 1858.

Chap. 86. AN ACT IN FURTHER ADDITION TO "AN ACT FOR SUPPLYING THE CITY OF BOSTON WITH PURE WATER."

Be it enacted, &c., as follows :

City of Boston
authorized to
raise dam at out-
let of Lake Co-
chituate, &c.

SECTION 1. The city of Boston is hereby authorized, by and through the agency of the Cochituate Water Board therein, or by and through any other agency, which shall be established therefor by the city council of said city, to raise the dam at the outlet of Lake Cochituate, formerly called Long Pond, lying in the towns of Natick, Wayland and Framingham, two feet above the present height of said dam ; and may also take and hold, from time to time, by purchase or otherwise, any lands or real estate on and around the margin of said lake, not exceeding five rods in width, measuring from the verge of said lake, when the same shall be raised to the level authorized by this act, so far as such lands and real estate may be necessary for the preservation and purity of said lake, for the purpose of furnishing a supply of pure water for said city of Boston.

May hold real
estate, &c.

Liability for dam-
ages.

SECTION 2. The said city of Boston shall be liable to pay all damages that shall be sustained by any persons in their property by the taking of any land or real estate, or by the flowage of the lands of any person, as aforesaid ; and in regard to such taking and flowing, and the ascertainment and payment of all such damages, the said city of Boston, and all persons claiming damages, shall have all the rights, immunities and remedies, and be subject to all the duties, liabilities and obligations, which are provided in the one hundred and sixty-seventh chapter of the acts of the year one thousand eight hundred and forty-six, the one hundred and eighty-seventh chapter of the acts of the year one thousand eight hundred and forty-nine, and the three hundred and sixteenth chapter of the acts of the year one thousand eight hundred and fifty.

Act not to take
effect until ac-
cepted.

SECTION 3. This act shall not take effect until the same shall have been accepted by the city council of Boston, and also by the inhabitants of the towns of Framingham, Natick and Wayland, at legal meetings to be held for that purpose.

Approved March 25, 1858.

Chap. 87. AN ACT AUTHORIZING JOHN SOMES TO EXTEND HIS WHARF.

Be it enacted, &c., as follows :

May extend
wharf.

SECTION 1. John Somes is hereby authorized to extend his wharf in the harbor of Gloucester, a distance not exceeding one hundred and sixty-five feet in a southerly direction towards the channel : *provided*, that this grant shall not, in any manner, interfere with the legal rights of any person or persons whatever.

Proviso.

SECTION 2. This act shall take effect from and after its passage.

Approved March 25, 1858.

AN ACT AUTHORIZING ROBERT FEARS TO EXTEND HIS WHARF.

Chap. 88.

Be it enacted, &c., as follows :

SECTION 1. Robert Fears is hereby authorized to extend and maintain his wharf at Duncan's Point, in the harbor of Gloucester, a distance of eighty feet, in a south-westerly direction towards the channel: *provided*, that this grant shall not in any manner interfere with the legal rights of any person or persons whatever.

May extend wharf.

Proviso.

SECTION 2. This act shall take effect from and after its passage.

Approved March 25, 1858.

AN ACT TO INCORPORATE THE CAPE ANN MUTUAL MARINE INSURANCE COMPANY.

Chap. 89.

Be it enacted, &c., as follows :

SECTION 1. John W. Lowe, Benjamin H. Corliss, and Joseph O. Proctor, their associates and successors, are hereby made a corporation by the name of the Cape Ann Mutual Marine Insurance Company, to be established in the town of Gloucester, for the term of twenty-eight years, for the purpose of making insurance on the mutual principle, against maritime losses; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes, and all acts now existing, or which may hereafter be passed, relating to mutual insurance companies.

Corporators.

Name.

Location.

Purpose.

Privileges, restrictions, &c.

SECTION 2. This act shall take effect from and after its passage.

Approved March 25, 1858.

AN ACT TO INCORPORATE THE NEW ENGLAND PIPE WORKS.

Chap. 90.

Be it enacted, &c., as follows :

SECTION 1. William H. Calrow, Josiah B. Richardson, S. T. Sanborn, Benjamin F. Butler, William E. Coffin, Erasmus F. Dana, Jason Braman, and H. K. Moore, their associates and successors, are hereby made a corporation, by the name of the New England Pipe Works, for the purpose of manufacturing steam and gas pipes and fittings, and machinery appertaining thereto; said company to be located in the city of Boston, in the county of Suffolk; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes, and in the two hundred and seventy-sixth chapter of the acts of the year one thousand eight hundred and fifty-seven.

Corporators.

Name.

Purpose.

Location.

Privileges, restrictions, &c.

Real estate not to exceed \$100,000, capital \$200,000.

SECTION 2. The said corporation may hold real estate, not exceeding in amount one hundred thousand dollars; and the whole capital stock thereof, shall not exceed, in amount, two hundred thousand dollars.

No shares issued under par.

SECTION 3. No share in the capital stock of said corporation, shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued.

SECTION 4. This act shall take effect from and after its passage.

Approved March 25, 1858.

Chap. 91.

AN ACT CONCERNING THE AMHERST AND BELCHERTOWN RAILROAD COMPANY.

Be it enacted, &c., as follows:

Time for locating and constructing, extended.

SECTION 1. The time allowed to the Amherst and Belchertown Railroad Company for locating the second section of its railroad, from Amherst to Montague, is hereby extended two years; and the time for constructing the same is hereby extended three years, beyond the periods now fixed by law for the location and construction thereof.

May issue shares as preferred stock &c.

SECTION 2. The said company is hereby authorized to issue any of the remaining shares of capital stock now authorized by law to be issued by said company, not exceeding one thousand in number, as a preferred stock for the purpose of paying the bonds and other debts of the company, of which six hundred shares shall be entitled to such dividends as the company may determine, not exceeding eight per cent. per annum, and the remainder shall be entitled to dividends not exceeding six per cent. per annum; said dividends to be paid out of the first net earnings of the said company.

May change name of company, &c.

SECTION 3. If said company's railroad, fixtures and franchise, now mortgaged to trustees for the security of bond holders, shall be lawfully sold by said trustees for the benefit of said bond holders, the purchasers at such sale are hereby authorized to associate themselves under any name they may assume. Said purchasers, their successors and assigns shall be and remain a body corporate, with all the powers and privileges of the original corporation, and subject to all the duties, restrictions and limitations, set forth in the forty-fourth chapter of the Revised Statutes.

Act void unless accepted by majority of stockholders, &c.

SECTION 4. This act shall not take effect unless it shall be accepted by a majority of the stockholders of the Amherst and Belchertown Railroad Company, present and voting at a meeting duly called and notified for that purpose.

Approved March 25, 1858.

AN ACT TO INCORPORATE THE TRAVELLER NEWSPAPER ASSOCIATION. *Chap. 92.**Be it enacted, &c., as follows :*

SECTION 1. Roland Worthington, Henry Flanders, Curtis Guild, Duncan McLean, Joseph B. Morss, and Charles C. Hazewell, their associates and successors, are hereby made a corporation by the name of the Traveller Newspaper Association, for the purpose of printing and publishing newspapers, and executing job printing, in the city of Boston ; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes.

SECTION 2. Said corporation for the purposes aforesaid, may hold real estate to the amount of fifty thousand dollars, and the whole amount of the capital stock shall not exceed one hundred and fifty thousand dollars.

SECTION 3. This act shall take effect from and after its passage.

Approved March 25, 1858.

Corporators.

Name.

Purpose.

Location.

Privileges, restrictions, &c.

Real estate \$50,000.

Capital not to exceed \$150,000.

AN ACT TO CHANGE THE JURISDICTION IN MATTERS OF PROBATE AND OF INSOLVENCY. *Chap. 93.**Be it enacted, &c., as follows :*

SECTION 1. The office of judge of probate of wills, and for granting letters of administration, and the office of judge of the court of insolvency, as the same are now established by law, in each of the respective counties of the Commonwealth, are hereby abolished ; and there shall be in each county of the Commonwealth a suitable person, learned in the law, appointed and qualified in the manner prescribed by the constitution, to be the judge of probate of wills, and for granting letters of administration, and to be the judge of the court of insolvency for such county, who shall be called the judge of probate and insolvency ; and as vacancies shall occur, the same shall be filled in the manner prescribed in the constitution for appointing and commissioning judicial officers.

Offices of judge of probate and judge of insolvency abolished.

Appointment and tenure of office of judges of probate and insolvency.

SECTION 2. All the jurisdiction and authority that the judges of the probate of wills, and for granting letters of administration now, by law, have and exercise, shall be transferred to, and vested in the judges of probate and insolvency ; and all the provisions of law that now apply to the judges of probate in their respective counties, shall apply in like manner to the judges of probate and insolvency, except so far as the same may be by this act modified or repealed.

Transfer of probate jurisdiction.

SECTION 3. All the jurisdiction and authority which the judges of insolvency, now, by law, have and exercise, shall

Transfer of insolvency jurisdiction.

be transferred to, and vested in, the judges of probate and insolvency, appointed under the provisions of this act; and all the provisions of law which now apply to the judges of insolvency, shall apply in like manner to the judges of probate and insolvency, except so far as the same may be by this act modified or repealed.

Election and tenure of office of registers of probate and insolvency.

SECTION 4. At the annual election in November in the year one thousand eight hundred and fifty-eight, and at the annual election in November of every fifth year thereafter, the legal voters of the several cities and towns in each county shall choose by ballot for their respective counties, a register of probate and insolvency, who shall act as register of the court of probate, and of the court of insolvency, within and for the county for which he shall be so chosen. The registers of probate and insolvency so elected, shall be sworn, and shall hold their offices, respectively, from the first Wednesday of January next following said annual election in November, excepting as hereinafter provided.

Offices of register of probate and register of insolvency abolished.

SECTION 5. The offices of register of probate and of register of insolvency respectively, in the several counties, as they now exist, shall, on the first Wednesday of January, when the registers of probate and insolvency shall enter upon the discharge of their respective duties, be abolished; and all the provisions of law which now apply to the registers of probate and the registers of insolvency respectively, in the several counties, shall apply in like manner to the registers of probate and insolvency in their respective counties, except so far as the same may be modified or repealed by this act.

Provisions of law to apply.

Appointment and tenure of office of assistant registers in certain counties.

SECTION 6. The judge of probate and insolvency in each of the several counties of Suffolk, Middlesex, Worcester, Essex and Norfolk, may appoint some suitable person to act as assistant-register of probate and insolvency in his respective county, who shall hold his office, subject to be sooner removed by the judge, for the term of three years from the time of his appointment; he shall perform his duties under the direction of the register of probate and insolvency, and shall be sworn to the faithful discharge of his duties, and shall pay over to the register, all fees and sums received by him as his assistant, to be accounted for according to law.

Powers and duties of assistant-register.

SECTION 7. Such assistant-register may authenticate papers, and perform such other duties of the register as shall not be performed by him; and in case of the absence, neglect, removal, resignation or death of the register, may

complete and attest any records remaining unfinished, and act as register until a new register be qualified.

SECTION 8. The said registers and assistant-registers of probate and insolvency, respectively, shall each give a bond to the treasurer of the Commonwealth, in a sum not less than five hundred dollars, and not exceeding five thousand dollars, as shall be ordered by the judge of probate and insolvency, with one or more sureties, to be approved by the judge, with condition for the faithful discharge of the duties of their respective offices.

Bond of registers and assistant-registers.

SECTION 9. The preliminary oath, now required by law to be taken by the creditor, in proof of his claim against the estate of the insolvent debtor, may be administered by a justice of the peace: *provided*, that the judge before whom the proceedings are pending, may, at any time, require the personal appearance in court of any party making such affidavit, to be further interrogated, on oath.

Oath of creditor.

Proviso.

SECTION 10. The judges of probate and insolvency in the several counties, shall have original and exclusive jurisdiction of all cases of insolvent debtors, who reside within their respective counties, and shall desire to take the benefit of the acts for the relief of insolvent debtors: *provided*, that when a partnership is insolvent, consisting of two or more partners who may reside in different counties, the judge of probate and insolvency, within whose county either one of the partners may reside, may, on the petition of either one of the partners, or of any one of the creditors of the partnership, take jurisdiction and issue a warrant under the provisions of the acts for the relief of insolvent debtors.

Judges to have exclusive jurisdiction in their several counties.

Proviso

SECTION 11. The judges of probate and insolvency, in the several counties in the Commonwealth, are hereby authorized, in addition to the places established by law, to hold their courts of insolvency at such fixed times and places as may best promote the convenience of the public.

Times and places of holding courts.

SECTION 12. The provisions of the one hundred and seventy-third chapter of the acts of the year one thousand eight hundred and fifty-six, which now apply to registers of probate, shall, as far as the same may be applicable, hereafter apply to the registers of probate and insolvency, who may be elected and qualified under the provisions of this act.

Act of 1856 to apply.

SECTION 13. The several judges of probate and insolvency, appointed under the provisions of this act, shall receive for their services, annual salaries, to be paid to them respectively, out of the treasury of this Commonwealth, in quarterly payments, on the first days of January, April,

Salaries of judges.

July and October, and in the same proportion for every part of a year, to wit:

Suffolk.	The judge of probate and insolvency for the county of Suffolk, the sum of three thousand dollars;
Middlesex.	The judge of probate and insolvency for the county of Middlesex, the sum of two thousand dollars;
Worcester.	The judge of probate and insolvency for the county of Worcester, the sum of eighteen hundred dollars;
Essex.	The judge of probate and insolvency for the county of Essex, the sum of fifteen hundred dollars;
Norfolk.	The judge of probate and insolvency for the county of Norfolk, the sum of fourteen hundred dollars;
Bristol.	The judge of probate and insolvency for the county of Bristol, the sum of eleven hundred dollars;
Plymouth.	The judge of probate and insolvency for the county of Plymouth, the sum of one thousand dollars;
Berkshire.	The judge of probate and insolvency for the county of Berkshire, the sum of eight hundred dollars;
Hampden.	The judge of probate and insolvency for the county of Hampden, the sum of eight hundred dollars;
Barnstable.	The judge of probate and insolvency for the county of Barnstable, the sum of seven hundred dollars;
Hampshire.	The judge of probate and insolvency for the county of Hampshire, the sum of six hundred and fifty dollars;
Franklin.	The judge of probate and insolvency for the county of Franklin, the sum of six hundred dollars;
Nantucket.	The judge of probate and insolvency for the county of Nantucket, the sum of three hundred dollars;
Dukes County.	The judge of probate and insolvency for the county of Dukes County, the sum of two hundred and fifty dollars.

Salaries of registers and assistants.

SECTION 14. The several registers and assistant-registers of probate and insolvency, appointed under the provisions of this act, shall receive for their services, annual salaries, to be paid to them respectively, out of the treasury of the Commonwealth, in quarterly payments, on the first days of January, April, July and October, and in the same proportion for any part of a year, to wit:

Suffolk.	The register of probate and insolvency for the county of Suffolk, the sum of three thousand dollars;
	The assistant-register for the county of Suffolk, the sum of fifteen hundred dollars;
Middlesex.	The register of probate and insolvency for the county of Middlesex, the sum of fifteen hundred dollars;
	The assistant-register for the county of Middlesex, the sum of one thousand dollars;

The register of probate and insolvency for the county of Worcester. Worcester, the sum of fifteen hundred dollars ;

The assistant-register for the county of Worcester, the sum of one thousand dollars ;

The register of probate and insolvency for the county of Essex. Essex, the sum of fifteen hundred dollars ;

The assistant-register for the county of Essex, the sum of eight hundred dollars ;

The register of probate and insolvency for the county of Norfolk. Norfolk, the sum of one thousand dollars ;

The assistant-register for the county of Norfolk, the sum of six hundred dollars ;

The register of probate and insolvency for the county of Bristol. Bristol, the sum of thirteen hundred dollars ;

The register of probate and insolvency for the county of Plymouth. Plymouth, the sum of one thousand dollars ;

The register of probate and insolvency for the county of Hampden. Hampden, the sum of eight hundred dollars ;

The register of probate and insolvency for the county of Berkshire. Berkshire, the sum of eight hundred dollars ;

The register of probate and insolvency for the county of Hampshire. Hampshire, the sum of seven hundred and fifty dollars ;

The register of probate and insolvency for the county of Franklin. Franklin, the sum of seven hundred dollars ;

The register of probate and insolvency for the county of Barnstable. Barnstable, the sum of seven hundred dollars ;

The register of probate and insolvency for the county of Nantucket. Nantucket, the sum of three hundred dollars ;

The register of probate and insolvency for the county of Dukes Co. Dukes County, the sum of two hundred and seventy-five dollars.

SECTION 15. This act shall take effect on the first day of July next, except as to that part which provides for appointing and qualifying the judges of the court of probate and insolvency, which part shall take effect thirty days from the passage hereof.

Approved March 26, 1858.

AN ACT IN RELATION TO THE PICKEREL AND PERCH FISHERY IN THE DISTRICT OF MARSHPEE. *Chap. 94.*

Be it enacted, &c., as follows :

SECTION 1. The district of Marshpee is hereby authorized and empowered, at any legal meeting, called and held for that purpose, to make and establish by-laws in relation to the taking of pickerel and perch in any of the ponds in said district, by hooks and lines, at any season of the year.

District may establish by-laws.

May authorize
selectmen to let
fishery.

SECTION 2. The said district, at any regular meeting, with notice in the warrant that the subject will be acted on, may authorize the selectmen of said district to let or dispose of the pickerel and perch fishery, or either, within said district, or any part thereof, from time to time, for any term not exceeding one year, to any person, upon such terms as may be by its by-laws fixed and established.

Penalty.

SECTION 3. Any person who shall take or catch any fish, in violation of the provisions of any by-laws established under authority of this act, shall forfeit and pay a fine of not less than one dollar nor more than twenty dollars, for each and every offence, to be recovered by prosecution before any court of competent jurisdiction, one-half to the person prosecuting, and one-half to the said district.

SECTION 4. All acts and parts of acts inconsistent herewith, are hereby repealed.

Approved March 26, 1858.

Chap. 95. AN ACT IN FURTHER ADDITION TO AN ACT TO REGULATE THE FISHERIES IN THE VICINITY OF NANTUCKET.

Be it enacted, &c., as follows :

Acts of 1850 and
1855 extended.

The provisions of the sixth chapter of the acts of eighteen hundred and fifty, and of the one hundred and fifty-sixth chapter of the acts of eighteen hundred and fifty-five, are hereby extended, and shall apply to the taking of fish, with any kind of net, by any person or persons, within the limits prescribed in the act first above mentioned.

Approved March 26, 1858.

Chap. 96. AN ACT IN RELATION TO CERTAIN FUNDS BELONGING TO THE COMMONWEALTH, AND THE DISBURSEMENT OF THE INCOME THEREOF.

Be it enacted, &c., as follows :

Investment of
certain funds.

SECTION 1. The Massachusetts School Fund, the State Almshouse Loan Sinking Fund, the fund provided by chapter one hundred and ninety-seven of the acts of the year one thousand eight hundred and fifty-seven, (which fund shall hereafter be known as the "Debt-Extinguishment Fund,") the Indian School Fund, the Todd Normal School Fund, the donation of Henry B. Rogers, (hereafter to be known as the "Rogers Book Fund,") the Charles River and Warren Bridges Fund, and all additions which may be made to said funds, shall continue to be held and invested, and the investments may be altered, according to such acts and resolves as have been or may hereafter be passed relating to said funds, any thing contained in the first chapter of the acts of the present year to the contrary notwithstanding : *provided*, that no part of the income of any of said funds shall be used for any other purpose than to be added to the principal for

Proviso.

the purpose of accumulation, unless in accordance with some specific appropriation as is provided in said first chapter, or unless it is otherwise provided in this act.

SECTION 2. One moiety of the income of the Massachusetts School Fund shall be annually apportioned and distributed among the several cities and towns in this Commonwealth entitled thereto, for the use and support of common schools, in the manner, according to the provisions and under the restrictions, heretofore established by law for such apportionment and distribution, although no specific appropriation thereof be made to this effect; and the other moiety shall furnish the means from which all educational expenses shall be paid, in accordance with such appropriations as may be made in each year; and the balance not required to satisfy such appropriations shall always be added to the principal of the fund.

Distribution of
income of school
fund.

SECTION 3. The sums hereinafter mentioned in this section, are appropriated and shall be allowed and paid out of the moiety of the income of the school fund applicable to educational purposes, for the year one thousand eight hundred and fifty-eight, including also unpaid accounts of preceding years, in addition to three thousand six hundred dollars, already appropriated in the eleventh chapter of the acts of the present year; that is to say:

Appropriations
from school
fund.

For the support of the four state normal schools, in accordance with the provisions of the resolves of the year one thousand eight hundred and fifty-five, chapter forty-eight, and the resolves of one thousand eight hundred and fifty-seven, chapter eighty-five, a sum not exceeding thirteen thousand five hundred dollars.

Normal schools.

For the support of one or more agents of the board of education, in accordance with the provisions of the resolves of the year one thousand eight hundred and fifty-seven, chapter twenty-two, a sum not exceeding three thousand five hundred dollars.

Agents board of
education.

For the Massachusetts Teachers' Association, in accordance with the resolves of the year one thousand eight hundred and fifty-three, chapter nine, three hundred dollars; and in accordance with the resolves of the year one thousand eight hundred and fifty-seven, chapter thirty-five, three hundred dollars.

Massachusetts
Teachers' As-
sociation.

To supply dictionaries to the schools, in accordance with the resolves of the year one thousand eight hundred and fifty, chapter ninety-nine, a sum not exceeding six hundred dollars.

Dictionaries for
schools.

For teachers' institutes, in accordance with the acts of the year one thousand eight hundred and forty-six, chapter

Teachers' insti-
tutes.

ninety-nine, the resolves of the year one thousand eight hundred and fifty, chapter sixty-five, and the resolves of the year one thousand eight hundred and fifty-two, chapter two, a sum not exceeding four thousand two hundred and fifty dollars.

State scholar-
ships.

For the support of state scholarships, in accordance with the acts of the year one thousand eight hundred and fifty-three, chapter one hundred and ninety-three, four thousand eight hundred dollars.

Aid to attend-
ants in normal
schools.

For aid to attendants in the state normal schools, in accordance with the resolves of the year one thousand eight hundred and fifty-three, chapter sixty-two, a sum not exceeding four thousand dollars.

Expenses of sec-
retary of board of
education.

For the expenses of the secretary of the board of education, in accordance with the acts of the year one thousand eight hundred and forty-nine, chapter two hundred and fifteen, section third, a sum not exceeding four hundred dollars.

Expenses of mem-
bers of board of
education.

For the expenses of the members of the board of education, in accordance with the acts of the year one thousand eight hundred and thirty-eight, chapter fifty-five, a sum not exceeding two hundred dollars.

New England
School of De-
sign for women.

For the New England School of Design for Women, in accordance with the resolves of the year one thousand eight hundred and fifty-six, chapter ninety, five hundred dollars.

New England
Female Medical
College.

For the New England Female Medical College, in accordance with the resolves of the year one thousand eight hundred and fifty-four, chapter eighty-five, one thousand dollars; and in accordance with the resolves of the year one thousand eight hundred and fifty-five, chapter forty-five, and subject to the conditions therein mentioned, two thousand five hundred dollars.

Indian Schools.

For the support of certain Indian schools, in accordance with the Revised Statutes, chapter twenty-three, section sixty-eight, one hundred dollars; in accordance with the acts of the year one thousand eight hundred and thirty-eight, chapter one hundred and fifty-four, one hundred and forty dollars; in accordance with the resolves of the year one thousand eight hundred and fifty-five, chapter thirty-five, one hundred and sixty-five dollars; in accordance with the resolves of the year one thousand eight hundred and fifty-six, chapter twenty, sixty dollars; chapter twenty-eight, one hundred and four dollars; chapter thirty-four, sixty dollars; making in the aggregate six hundred and twenty-nine dollars.

For county associations of teachers, in accordance with

the acts of the year one thousand eight hundred and forty-eight, chapter three hundred and one, a sum not exceeding seven hundred dollars.

County associations of teachers.

For postage, printing, advertising, stationery, meteorological observations, and all other incidental expenses of the board of education, or of the secretary thereof, a sum not exceeding three thousand eight hundred dollars.

Postage, &c.

And it shall be the duty of all societies, associations and institutions to which money is paid in virtue of appropriations herein made, to make a report to the auditor, on or before the first day of January next, stating particularly the manner in which such money has been disbursed. The auditor shall include an abstract of said statements in his annual report.

Societies, &c., receiving money to report to auditor.

SECTION 4. All payments made for accrued interest upon securities purchased in making new investments of any part of the principal of the Massachusetts School Fund, shall be charged against and deducted from the income of the fund. Such payments, when made before the first day of June in any year, shall be deducted from the income previous to its division into two parts as herein before provided: when made subsequently, they shall be charged against the income to be divided in the next year.

Accrued interest on school fund; how to be charged

SECTION 5. The income of the school fund may be anticipated from the ordinary revenue, whenever this is necessary to carry out the provisions of the third and fourth sections of this act: *provided*, that all sums thus anticipated shall be repaid as soon as practicable; and *provided, further*, that no payments shall be made from the ordinary revenue in any year, in anticipation of the income of the school fund to be earned in the succeeding year.

Income of school fund may be anticipated from ordinary revenue.

Proviso.

SECTION 6. All grants of money from the income of the school fund heretofore made for a specified number of years, shall cease and determine at the expiration of the periods for which they have severally been made, unless annually renewed; and all such grants made for an indefinite period, shall cease and determine with the present year; and upon the determination of such grants the legislature shall have full power in each year to apportion and appropriate the moiety of the income of the school fund applicable to educational purposes, to such objects and by such amounts as shall seem to the legislature in each year best to subserve the educational interests of the Commonwealth.

Grants of money from income of school fund to terminate the present year.

Legislature to have power, &c.

SECTION 7. The income of the Indians' School Fund shall be applied according to the provisions of the acts of the

Income of Indian School Fund; how applied.

year one thousand eight hundred and thirty-seven, chapter eighty-five, section seven.

Income of Todd Normal School Fund; how applied.

SECTION 8. The income of the Todd Normal School Fund shall be paid to the treasurer of the board of education, to be applied in such manner as may be prescribed by said board.

Avails of sales of Back Bay lands to be paid into the treasury and moiety to constitute Back Bay Fund.

SECTION 9. The avails of the sales of lands belonging to the Commonwealth in the Back Bay, shall be paid into the treasury, to be held, invested and applied in accordance with the provisions of the resolves of the year one thousand eight hundred and fifty-seven, chapter seventy; and the moiety of such avails, which, by the provisions of said chapter, inures immediately to the use of the Commonwealth, shall constitute a fund (to be known as the "Bay Lands Fund") to be employed for the redemption of the scrip issued in the year one thousand eight hundred and fifty-six, in accordance with the provisions of the third section of chapter two hundred and thirty-five of the acts of that year.

Income of Rogers Book Fund; how expended.

SECTION 10. The income of the Rogers Book Fund shall be annually expended, in accordance with the conditions named by the donor, in conformity with chapter two hundred and fifteen of the acts of the year one thousand eight hundred and fifty-seven.

Toll to cease on Charles River and Warren Bridges when fund reaches \$100,000.

SECTION 11. Whenever the Charles River and Warren Bridges Fund shall have reached the sum of one hundred thousand dollars, and all accounts and charges upon said fund shall have been paid and settled, the governor shall issue his proclamation, declaring that the collection of tolls shall cease from and after such day as he may appoint,—and the tolls shall continue to be levied until the time thus appointed by the governor; and said sum of one hundred thousand dollars shall be set apart and preserved as a permanent fund, and the income thereof alone shall, annually, be expended for the maintenance and support of the bridges, according to such appropriations as may be made in each year by the legislature.

Sums appropriated from fund of Charles River and Warren Bridges.

SECTION 12. The sums mentioned in this section are appropriated, and shall be allowed and paid out of the Charles River and Warren Bridges Fund, in accordance with the provisions of chapter four hundred and fifty-one of the acts of the year one thousand eight hundred and fifty-four; that is to say:

Unpaid accounts of 1857.

To meet certain unpaid accounts of the year one thousand eight hundred and fifty-seven, one thousand seven hundred and nineteen dollars and eighty-six cents.

For collecting tolls, a sum not exceeding four thousand dollars. Collecting tolls.

For attending draws and horse-keeping, a sum not exceeding three thousand dollars. Attending draws, &c.

For gas, oil, fluid and fuel, a sum not exceeding one thousand five hundred dollars. Gas, oil, &c.

For the compensation of the agent of the Charles River and Warren Bridges, one thousand two hundred and fifty dollars. Pay of agent.

For repairs, a sum not exceeding one thousand dollars. Repairs.

For incidental expenses, a sum not exceeding three hundred dollars. Incidentals.

SECTION 13. The auditor is hereby authorized to hear and examine the claim of William F. Veazie, for damages alleged to have been sustained by him in consequence of repairs upon Warren Bridge, in the years one thousand eight hundred and fifty-five and one thousand eight hundred and fifty-six; and the auditor may make such allowance for said damages as may seem to him just and equitable, not exceeding the sum of one hundred and thirty-four dollars and thirty-eight cents, which sum, or so much thereof as may be necessary, is hereby appropriated out of the Charles River and Warren Bridges Fund, to be paid, as aforesaid, in the settlement of said Veazie's claim. Auditor to examine claim of Wm. F. Veazie, &c.

SECTION 14. Any claim for repairs, damages, or services of any kind, the payment of which would be chargeable upon the Charles River and Warren Bridges Fund, which claim shall not have been presented either to the agent of said bridges, or to the auditor, before the time when the collection of tolls ceases, shall be held to be released as against the Commonwealth or its servants. Claim for repairs, &c., to be released unless presented before tolls cease.

SECTION 15. In any case for which no other provision is made by law, the income of all funds belonging to the Commonwealth shall be added to the principal. Income of state funds to be added to principal in certain cases.

SECTION 16. All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

SECTION 17. This act shall take effect from and after its passage.

Approved March 26, 1858.

AN ACT CONCERNING THE MIDDLESEX MUTUAL FIRE INSURANCE COMPANY.

Chap. 97.

Be it enacted, &c., as follows:

SECTION 1. The Middlesex Mutual Fire Insurance Company, in the town of Concord, is hereby authorized to accept the extension of its charter, and to file a notice of such acceptance with the secretary of the Commonwealth, on or Notice to be filed with secretary of Commonwealth.

before the first day of July next; and such acceptance and the filing notice of the same, shall have the same effect as if they had been done agreeably to the requirements of the statutes of this Commonwealth regulating the business of insurance companies.

SECTION 2. This act shall take effect from and after its passage.

Approved March 26, 1858.

Chap. 98. AN ACT CONCERNING THE BOWDOIN MUTUAL INSURANCE COMPANY.
Be it enacted, &c., as follows:

Act to be accepted within sixty days.

SECTION 1. The corporation established by chapter two hundred and eighty-seven of the acts of the year one thousand eight hundred and fifty-six, is hereby authorized to accept said act and organize under the same, within sixty days from the passage of this act; and said acceptance and organization shall have the same force and effect, as they would have had if the same had been done within one year from the passage of said act.

SECTION 2. This act shall take effect from and after its passage.

Approved March 26, 1858.

Chap. 99. AN ACT RELATING TO THE ASSESSMENT OF TAXES IN THE TOWN OF NEWBURY.

Be it enacted, &c., as follows:

Assessment of taxes legalized.

SECTION 1. The assessments of taxes, made by the assessors of taxes of the town of Newbury, for the year one thousand eight hundred and fifty-five, and the taxes, as assessed by said assessors for that year, are declared and made legal and valid.

No suits to be sustained.

SECTION 2. No suit at law or in equity hereafter commenced, so far as the cause thereof accrues from any irregularity or defect in the assessments of taxes, in and for said town, for said year one thousand eight hundred and fifty-five, shall be sustained; and this act may be pleaded in bar of any such suit, so far as the cause thereof accrues from any such irregularity or defect.

SECTION 3. This act shall take effect from and after its passage.

Approved March 26, 1858.

Chap. 100 AN ACT RESPECTING THE WESTERN RAILROAD SINKING FUND.
Be it enacted, &c., as follows:

Investments to be made in bonds and public securities.

SECTION 1. All future investments of moneys belonging to the Western Railroad sinking fund shall be made in the following securities, to wit:

The bonds of the Commonwealth, for the redemption of which said sinking fund is provided:

Other bonds of the Commonwealth :

The public securities of the United States :

The public securities of the state of New York :

The public securities of either of the states of New England :

The public securities of the cities or towns of this Commonwealth.

SECTION 2. The commissioners of the Western Railroad sinking fund, are hereby required to collect, as soon as may be, all loans which are overdue, or shall hereafter become due, and re-invest the same in conformity with the first section of this act. Commissioners to collect loans overdue and reinvest.

SECTION 3. This act shall take effect from and after its passage.

Approved March 26, 1858.

AN ACT TO INCORPORATE THE MISHAWUM LITERARY ASSOCIATION.

Chap. 101

Be it enacted, &c., as follows :

SECTION 1. Benjamin Y. Pippey, Charles F. Smith, Alphonso L. Paine and William H. Finney, their associates and successors, are hereby made a corporation by the name of the Mishawum Literary Association, of Charlestown, for the purpose of mutual literary improvement ; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, as set forth in the forty-fourth chapter of the Revised Statutes. Corporators.
Name.
Location.
Purpose.
Privileges, restrictions, &c.

SECTION 2. The said corporation may hold real and personal estate for the purposes aforesaid, not exceeding in all, the sum of twenty thousand dollars, the legal title to which shall vest in a prudential committee, consisting of five persons, two of whom shall be the president and vice-president of the corporation ; the remaining three shall be elected as prescribed by the by-laws of the corporation, excepting that no person shall be a member of the prudential committee unless such person shall be above twenty-one years of age. Real and personal estate not to exceed \$20,000.
Title to vest in prudential committee, &c.

SECTION 3. Persons engaged in mercantile, mechanical, or other laudable occupations, and above the age of fifteen years, and none others, shall be eligible as members of the corporation, and entitled to vote and act as officers ; excepting that in no case shall a person under twenty-one years of age be a member of the prudential committee. Persons eligible.

Approved March 26, 1858.

AN ACT TO INCORPORATE THE WINTHROP MUTUAL FIRE INSURANCE COMPANY.

Chap. 102

Be it enacted, &c., as follows :

SECTION 1. Henry Rice, Samuel Whitwell, George O. Hovey, their associates and successors, are hereby made a Corporators.

Name.	corporation by the name of the Winthrop Mutual Fire
Location.	Insurance Company, to be established in the city of Boston,
Purpose.	for the term of twenty-eight years, for the purpose of
	insuring dwelling-houses and other buildings, and personal
Privileges, re-	property, against loss or damage by fire ; with all the powers
strictions, &c.	and privileges, and subject to all the duties, liabilities and
	restrictions, set forth in the thirty-seventh and forty-fourth
	chapters of the Revised Statutes, and all acts now existing,
	or which may hereafter be passed, relating to mutual fire
	insurance companies.

SECTION 2. This act shall take effect from and after its passage.

Approved March 26, 1858.

Chap. 103 AN ACT IN ADDITION TO THE SEVERAL ACTS IN RELATION TO THE
POLICE COURT OF THE CITY OF NEW BEDFORD.

Be it enacted, &c., as follows :

Salary of stand-
ing justice.

SECTION 1. The standing justice of the police court of the city of New Bedford, shall receive an annual salary of not less than twelve hundred dollars, the amount of which, if above that sum, shall be established from time to time, but not oftener than once in each year, by the concurrent vote of the two branches of the city council of said city ; and said salary shall be paid to him in quarterly payments, out of the treasury of said city, and shall be in full for all services which he is now or may hereafter be required or authorized to perform as said justice.

Compensation of
special justices.

SECTION 2. Whenever the said police court shall be held by either of the special justices thereof, the said special justice shall receive in compensation for his services, the sum of five dollars for each day he so holds said court, to be paid in the manner by law provided for the payment of the salary of the said standing justice ; and the amounts so paid shall be deducted from the salary of the said standing justice : and the fees which the special justices are now by law entitled to receive, shall be received by the clerk of said court, and accounted for and paid into the treasury of the city of New Bedford, as now provided with regard to other fees.

Fees to be paid
into city treas-
ury.

SECTION 3. Neither the standing justice, nor either of the special justices, nor the clerk of said court, in their official capacities, or acting as justices of the peace, shall receive to their own use any fees or compensation, for making, receiving or issuing any complaint, warrant, subpoena or other criminal process ; but the fees which they are now by law entitled to receive for such services, shall be collected and received by the said clerk, and by him accounted for

and paid into the treasury of the city of New Bedford, with the other fees in criminal cases; and no fees shall hereafter be allowed to any justice of the peace, for issuing warrants or other criminal process, in case of offences committed in said city; but the same shall be accounted for and paid into the treasury of said city.

SECTION 4. Neither of the said special justices shall be retained or employed as counsel or attorney in any court, in any criminal prosecution, complaint or proceeding pending in said police court, or which has been heard, tried or determined in said court.

Special justices
not to be of coun-
sel.

SECTION 5. All acts and parts of acts, inconsistent with this act, are hereby repealed.

SECTION 6. This act shall take effect on and after the first day of April next.

Approved March 26, 1858.

AN ACT CONCERNING OFFICERS ATTENDING ON THE SUPREME JUDICIAL COURT, IN THE COUNTY OF SUFFOLK.

Chap. 104

Be it enacted, &c., as follows:

Officers attending upon the supreme judicial court, in the county of Suffolk, shall receive as compensation therefor, such sum as may be allowed by said court, not exceeding three dollars per day: *provided*, that this act shall not apply to any deputy of the sheriff of said county.

Compensation of
officers.

Approved March 26, 1858.

AN ACT TO INCREASE THE CAPITAL STOCK OF THE PACIFIC MILLS.

Chap. 105

Be it enacted, &c., as follows:

SECTION 1. The Pacific Mills are hereby authorized to increase their capital stock, by adding thereto a sum not exceeding one million dollars; and to invest the same in such real and personal estate, as may be necessary and convenient for the purposes for which they were incorporated.

Additional capi-
tal authorized.

SECTION 2. No stock shall be issued under this act for a less sum or amount, to be actually paid in on each, than the par value of the original shares.

No shares issued
under par.

Approved March 26, 1858.

AN ACT TO PROVIDE FOR THE PRESERVATION OF BOOKS, REPORTS AND LAWS, RECEIVED BY CITIES AND TOWNS FROM THE COMMONWEALTH.

Chap. 106

Be it enacted, &c., as follows:

SECTION 1. It shall be the duty of the city government of the several cities, and of the selectmen of the several towns in this Commonwealth, to provide at the expense of such cities and towns, some suitable cabinet or book-case, for the safe preservation of such books, reports and laws, as said cities and towns may receive from the Commonwealth.

City and town
authorities to
provide cabinet,
&c.

Penalty.

SECTION 2. For every month that any city or town shall neglect to fulfil the requirements of this act, it shall forfeit and pay the sum of ten dollars, one-half of which penalty shall be paid to the complainant, and one-half to the Commonwealth.

SECTION 3. This act shall go into effect on the first day of July next.

Approved March 26, 1858.

Chap. 107

AN ACT IN ADDITION TO "AN ACT CONCERNING THE DUTIES OF ASSESSORS."

Be it enacted, &c., as follows :

Assessors to deposit with clerk a list of persons assessed.

Whenever the assessors of any city or town, shall, after having committed their tax-list to the collector, assess any tax to any person, under the provisions of the one hundred and sixty-ninth chapter of the acts of the year eighteen hundred and fifty-two, they shall, five days at least, before any election, prepare and deposit with the clerk of such city or town, a true list of all persons so assessed.

Approved March 26, 1858.

Chap. 108

AN ACT IN ADDITION TO AN ACT TO PROVIDE FOR THE MAINTENANCE OF THE ESSEX BRIDGE.

Be it enacted, &c., as follows :

In case Salem or Beverly neglect to accept act referred to, executive to ascertain, &c.

SECTION 1. In case the city of Salem or the town of Beverly, or either of them, or their officers mentioned in said act, shall neglect or decline to accept the act to which this is in addition, or to elect trustees as therein mentioned, on or before the time provided for in the second section thereof, the governor and council are hereby authorized and directed to ascertain whether the said bridge is delivered up in good repair to and for the use of this government, agreeably to the provisions of the act incorporating the proprietors of said bridge; and in case the same shall be found to be so delivered up, then the treasurer and receiver-general, is authorized to execute the instrument of release mentioned in the first section of said act.

Governor to appoint agent.

SECTION 2. In case of the non-acceptance of the act to which this is in addition, and of the delivery of the bridge in manner provided in the first section hereof, the governor, by and with the consent of the council, shall immediately on such delivery, appoint an agent, and determine his salary, which shall in no case exceed twelve per centum of the gross proceeds of the tolls hereafter mentioned; and it shall be the duty of said agent, for and on behalf of the Commonwealth, to take charge of, manage and repair said bridge, collect the tolls thereon, manage the draw, and conduct the

Duties of agent, &c.

affairs thereof in the same manner as the proprietors of said bridge are now required by law to do. Said agent shall give bonds to the satisfaction of the governor and council for the faithful discharge of his duties.

SECTION 3. Tolls upon said bridge are hereby continued Rates of toll. and established, until they shall be discontinued under the provisions of this act, at and after the following rates, to wit:

For each person and horse, three cents;

For each chaise, or other pleasure carriage or sleigh, drawn by one horse, six cents;

For each coach, or other pleasure carriage or sleigh, or carriage or sleigh for passengers, drawn by two horses, twelve cents;

For each additional horse, two cents;

For each cart, wagon, sled or sleigh, or other carriage of burden, drawn by not more than two horses or yokes of cattle, five cents;

For each cart, wagon, sled or sleigh, or other carriage of burden, drawn by more than two horses or yokes of cattle, eight cents;

For horses or neat cattle, exclusive of those rode or in carriages, two cents each;

For sheep and swine, after the rate per dozen of six cents:

And said agent is hereby authorized to collect and receive the same.

The said agent shall be, and he hereby is, authorized and empowered to issue commutation passes, for not more than three successive months, which shall permit the holders thereof to pass and repass said bridge once each way daily, upon prepayment of the tolls for said three months, at the rate of two-thirds of the tolls herein established, or to pass and repass said bridge any number of times greater than once each way daily, at one-half the rates herein established, upon the prepayment of the tolls for three months as aforesaid. The tolls aforesaid may be renewed in the case mentioned in the sixth section hereof.

Agent may issue commutation passes, &c.

SECTION 4. From the aforesaid tolls, the said agent shall disburse all sums necessary for the repair, maintenance, improvement or construction of said bridge, in the same manner as the proprietors of said bridge are now by law required to do. He shall quarterly, on the first days of January, April, July and October, in each year, account for all tolls received and all disbursements made by authority of this act, and pay over to the treasurer and receiver-general of the Commonwealth, the balance remaining in his hands;

Agent to disburse from tolls all sums for repairs, &c.

Agent to render account, quarterly, of all expenses, &c.

and said accounts shall be subject to examination and approval by the auditor of the Commonwealth.

Treasurer to receive all moneys from tolls, and credit to bridge fund.

SECTION 5. The treasurer and receiver-general shall receive the proceeds of the tolls aforesaid, and shall pass the same to the credit of a fund to be denominated the Essex Bridge Fund; and the same shall be invested in the name of such fund in good securities on interest, to which shall be added from time to time, the interest accruing and paid thereon.

Tolls to cease when fund amounts to \$30,000, &c.

SECTION 6. Whenever said Essex Bridge Fund shall amount to the sum of thirty thousand dollars, the tolls upon said bridge shall cease, and all necessary disbursements, as is herein before provided, including the compensation of the agent aforesaid, shall thereafter be paid from said fund; and if at any time the same shall be reduced to the sum of twenty-five thousand dollars, then the tolls herein established shall be again collected, until said fund shall amount to thirty thousand dollars.

SECTION 7. All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

Approved March 26, 1858.

Chap. 109

AN ACT CONCERNING THE WRIT OF CERTIORARI.

Be it enacted, &c., as follows :

Decree in writ of certiorari.

Whenever the proceedings of any tribunal shall be brought before the supreme judicial court by a writ of certiorari, the said court may quash or affirm such proceedings or enter such judgment as the court below should have rendered, or make such order, judgment or decree in the premises, as law and justice shall require.

Approved March 26, 1858.

Chap. 110

AN ACT CONCERNING THE STATE INDUSTRIAL SCHOOL FOR GIRLS.

Be it enacted, &c., as follows :

Trustees to have power to bind out girls as apprentices.

SECTION 1. The trustees of the State Industrial School for Girls shall have power to bind out all girls committed to their charge, for any term of time during the period for which they shall have been committed, as apprentices or servants; and the said trustees, and master or mistress, apprentice or servant, shall respectively, have all the rights and privileges, and be subject to all the duties, set forth in the eightieth chapter of the Revised Statutes, in the same manner as if said binding or apprenticing were made by overseers of the poor.

Repeal.

SECTION 2. The fourteenth section of the act to establish a State Reform School for Girls, being the four hundred

and forty-second chapter of the acts of eighteen hundred and fifty-five, is hereby repealed.

SECTION 3. This act shall take effect from and after its passage.

Approved March 26, 1858.

AN ACT TO ESTABLISH THE SALARY OF THE DISTRICT-ATTORNEY FOR
THE MIDDLE DISTRICT.

Chap. 111

Be it enacted, &c., as follows:

SECTION 1. The salary of the district-attorney for the Middle District, so called, embracing the county of Worcester, shall hereafter be thirteen hundred dollars; to be paid in the manner by law provided.

Salary estab-
lished.

SECTION 2. This act shall take effect from and after its passage.

Approved March 27, 1858.

AN ACT CONCERNING THE REMOVAL OF PRISONERS IN THE PUBLIC
INSTITUTIONS OF THE CITY OF BOSTON.

Chap. 112

Be it enacted, &c., as follows:

The board of directors for public institutions of the city of Boston, comprising the house of correction, house of industry, house of reformation and lunatic hospital, is hereby authorized, at its discretion, to transfer from any one of the said institutions, to any other of said institutions, any prisoner sentenced to either of the same: *provided*, the assent of the court or magistrate, that committed said prisoner, shall first be obtained to such removal.

Directors author-
ized to transfer
prisoners from
one institution to
another.

Proviso.

Approved March 27, 1858.

AN ACT AUTHORIZING THE CITY OF BOSTON TO ESTABLISH A CITY
HOSPITAL.

Chap. 113

Be it enacted, &c., as follows:

SECTION 1. The city of Boston is hereby authorized to erect, establish and maintain a hospital for the reception of persons who by misfortune or poverty may require relief during temporary sickness.

Authorized to es-
tablish hospital.

SECTION 2. The city council of said city shall have power to make such ordinances, rules and regulations, as they may deem expedient, for the appointment of trustees, and all other necessary officers, agents and servants, for managing the said hospital.

Appointment of
officers, &c.

SECTION 3. Said hospital shall not be erected or located within three hundred feet of any school-house or church now built.

Location.

SECTION 4. This act shall take effect from and after its passage.

Approved March 27, 1858.

Chap. 114 AN ACT IN ADDITION TO AN ACT TO PUNISH FRAUDS IN OFFICERS OF CORPORATIONS.

Be it enacted, &c., as follows :

Penalty for fraudulent issue or transfer of bond, note, &c.

Any officer, agent, clerk or servant of any corporation, or any other person, who shall issue, or sign, or endorse with intent to issue, any bond, note, bill or other obligation or security, in the name of such corporation, beyond the amount authorized by law, or limited by the legal votes of such corporation or its proper officers, or shall negotiate, transfer or dispose of such bond, note, bill or other obligation or security, with intent to defraud, shall be punished by imprisonment in the state prison for a term not exceeding ten years, or in the house of correction not exceeding one year.

Approved March 27, 1858.

Chap. 115 AN ACT REQUIRING CERTAIN ADDITIONAL BANK RETURNS.

Be it enacted, &c., as follows :

Annual returns to distinguish between bills over and under \$5.

SECTION 1. In the annual returns of banks now required by law to be made to the secretary of the Commonwealth, a distinction shall be made between bills in circulation of five dollars and upwards, and those of a smaller denomination, showing the aggregate amount of each.

To specify amount of balances between country banks for redemption of their bills.

SECTION 2. Such returns shall hereafter also specify the amount of balances, which any bank out of the city of Boston, including the banks in South Boston, may have in any other bank at the time, when such return is made, to be applied to the redemption of its bills, and not bearing interest; and the secretary of the Commonwealth is hereby instructed to furnish blanks in conformity with the provisions of this act.

SECTION 3. All acts and parts of acts inconsistent with this act, are hereby repealed.

Approved March 27, 1858.

Chap. 116 AN ACT CONCERNING THE OFFICERS OF THE PROTESTANT EPISCOPAL CHURCH.

Be it enacted, &c., as follows :

Wardens and vestry to have powers of standing committee, &c.

Parishes and religious societies belonging to the body of Christians known as the Protestant Episcopal Church, heretofore organized under the laws of this Commonwealth, or which may hereafter be so organized, need not choose a standing committee, but the wardens, or wardens and vestry may exercise all the powers of a standing committee, in accordance with the usage and discipline of said church; and, instead of a moderator, the rector, or one of the wardens, unless it may be otherwise provided by some by-laws, may preside at their meetings, with all the powers of a

Duties of assessors may be performed by wardens, &c.

moderator ; and such societies need not choose a collector or assessors unless they shall assess or collect a tax on the polls, estates or pews, of the members thereof, and in any case may, by by-laws, provide that the duties of the assessors shall be performed by the wardens : *provided, however,* that the officers upon whom may devolve the duties of standing committee or assessors, shall in all cases be chosen by ballot.

Proviso.

Approved March 27, 1858.

AN ACT CONCERNING GUARDIANS AND WARDS.

Be it enacted, &c., as follows :

SECTION 1. Whenever any minor, spendthrift, or insane person, shall remove out of this Commonwealth, it shall be lawful and competent for any guardian of such minor, spendthrift, or insane person, appointed by any probate court in this Commonwealth, to pay over and transfer the whole or any part of his property to any guardian or trustee, or to any person who may be appointed guardian or trustee, by the competent authority in the state to which the residence of his ward may have been removed, upon such terms and in such manner as the supreme judicial court, sitting in any county, upon bill or petition filed therefor, shall order and decree.

By order of court guardian may transfer property of ward removing from this state.

SECTION 2. This act shall take effect from and after its passage.

Approved March 27, 1858.

Chap. 117

AN ACT TO FIX THE SALARIES OF THE DISTRICT-ATTORNEYS FOR THE NORTHERN, EASTERN AND SOUTHERN DISTRICTS.

Be it enacted, &c., as follows :

SECTION 1. The annual salaries of the district-attorneys for the northern, eastern and southern districts, shall hereafter be fifteen hundred dollars each ; to be paid to them respectively, out of the treasury of the state, in quarterly payments, and in that proportion for any part of a quarter.

Salaries established.

SECTION 2. Chapter two hundred and twenty-six of the acts of the year one thousand eight hundred and fifty-seven, is hereby repealed.

Repeal.

SECTION 3. This act shall take effect from and after its passage.

Approved March 27, 1858.

Chap. 118

AN ACT CONCERNING THE PREFERRED CLAIMS OF OPERATIVES AGAINST INSOLVENT DEBTORS AND CORPORATIONS.

Be it enacted, &c., as follows :

SECTION 1. Any person who shall have performed any labor as an operative in the service of any insolvent person or corporation, shall be entitled to prove as a preferred debt,

Claims of operatives for labor to be preferred debts, to amount of \$50.

Chap. 119

Proviso.

and to receive from the assignee of such insolvent, the full amount of the wages due to him for such labor, not exceeding fifty dollars: *provided*, that such labor shall have been performed within one year next preceding the first publication of the notice of insolvency by the messenger; and *provided, further*, that this limitation to one year shall not apply to any claim for labor, for the recovery of which, any suit commenced within one year next after the performance of such labor, shall be pending, or shall have been terminated within one year.

Not to apply to cases pending.

SECTION 2. This act shall take effect from and after its passage, but shall not apply to any case in insolvency pending at the time the law takes effect. *Approved March 27, 1858.*

Chap. 120 AN ACT IN RELATION TO THE COURT OF COMMON PLEAS FOR THE COUNTY OF WORCESTER.

Be it enacted, &c., as follows:

Time and place of holding terms of court changed.

SECTION 1. The term of the court of common pleas, now by law to be holden at Worcester, within and for the county of Worcester, on the third Monday of June in each year, shall hereafter be holden at Fitchburg in said county, on the second Monday of June, annually; and the term of said court, now by law to be holden at said Worcester, on the first Monday of December, in each year, shall hereafter be holden at the same place, on the second Monday of December, annually; and the term of said court now by law to be holden at Fitchburg aforesaid, on the fourth Monday of October, in each year, shall hereafter be holden at the same place, on the second Monday of November, annually.

Repeal.

SECTION 2. So much of the two hundred and ninety-eighth chapter of the acts passed in the year eighteen hundred and fifty-six, as requires that a term of the court of common pleas shall be holden at Fitchburg, in and for the county of Worcester, on the first Monday of February, annually, is hereby repealed.

SECTION 3. This act shall take effect on the first day of August next. *Approved March 27, 1858.*

Chap. 121 AN ACT CONCERNING DISCHARGES IN INSOLVENCY.

Be it enacted, &c., as follows:

Debtor not obtaining consent of creditors nor taking requisite oath, may be discharged by order of court when such want of assent was occasioned by accident, &c.

SECTION 1. When any insolvent debtor, whose discharge shall have been refused, at the third meeting of his creditors, for the sole reason that the requisite majority of his creditors had not seasonably assented thereto, or for the reason that the insolvent had not taken the oath required by the seventh section of the one hundred and sixty-third chapter of the

acts of the year eighteen hundred and thirty-eight, shall satisfy the judge of insolvency on a hearing and after public notice thereof, that such want of assent was occasioned by accident or mistake, unaccompanied by any fault of the insolvent; or that such omission to take the oath was owing to the inability of the insolvent to attend and take the same, by reason of the sickness of the insolvent, the judge may, in the exercise of his discretion, with the written assent of three-fourths, in number and value, of the creditors, who shall have proved their claims, grant a discharge to the insolvent, at a subsequent meeting of the creditors, if the insolvent shall then be present, take the oath aforesaid, and abide and perform all lawful orders of the court in the premises: *provided*, that such discharge shall not be granted unless the same shall be applied for within twelve months after the date of the assignment.

Proviso.

SECTION 2. This act shall take effect from and after its passage.

Approved March 27, 1858.

AN ACT IN RELATION TO SPECIAL ADMINISTRATORS.

Chap. 122

Be it enacted, &c., as follows:

SECTION 1. Whenever, by reason of a suit concerning the proof of a will, or from any other cause, there shall be a delay in granting letters testamentary, and a special administrator shall be appointed, the judge of probate for the county in which such special administrator shall have been appointed, may, in his discretion, authorize such administrator to take charge of the real estate, or of any part thereof, of the decedent, and to collect the rents, make all necessary repairs, and do all other things which the said judge may deem needful for the preservation thereof, and as a charge thereon.

Judge of probate may authorize administrator to take charge of real estate of decedent.

SECTION 2. This act shall take effect from and after its passage.

Approved March 27, 1858.

AN ACT TO CHANGE THE NAME OF THE QUINCY FIRE AND MARINE INSURANCE COMPANY.

Chap. 123

Be it enacted, &c., as follows:

The Quincy Fire and Marine Insurance Company, shall hereafter be called and known by the name of the Chauncy Fire and Marine Insurance Company.

Name changed.

Approved March 27, 1858.

AN ACT TO INCORPORATE THE WASHINGTON MILLS.

Chap. 124

Be it enacted, &c., as follows:

SECTION 1. George W. Lyman, Ignatius Sargent, William Appleton, Thomas G. Carey, Benjamin F. Butler, their

Corporators.

Name.	associates and successors, are hereby made a corporation by
Purpose.	the name of the Washington Mills, for the purpose of manu-
Location.	facturing cotton, woolen and mixed goods, in the city of
Privileges, re- strictions, &c.	Lawrence; and for that purpose shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes, and in the two hundred and seventy-sixth chapter of the acts of the year one thou- sand eight hundred and fifty-seven.

Real estate \$1,500,000, whole capital not to ex- ceed \$2,000,000.	SECTION 2. The said corporation may hold, for the pur- poses aforesaid, real estate to the amount of fifteen hundred thousand dollars, and the whole capital stock thereof shall not exceed in amount two million dollars.
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No shares issued under par.	SECTION 3. No share in the capital stock of said corpora- tion, shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued.
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SECTION 4. This act shall take effect from and after its
passage.

Approved March 27, 1858.

Chap. 125 AN ACT TO INCORPORATE THE LINDEN GROVE CEMETERY ASSOCIA-
TION.

Be it enacted, &c., as follows :

Corporators.	SECTION 1. C. A. Church, Peleg W. Peckham, Jonathan P. Gifford, their associates and successors, are hereby made a corporation, by the name of the Linden Grove Cemetery Association, for the purpose of establishing and perpetuating a place for the burial of the dead, to be located in the town of Westport, in the county of Bristol; and shall have all the powers and privileges, and be subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.
Name.	
Purpose.	
Location.	
Privileges, re- strictions, &c.	

Real and person- al estate not to exceed \$5,000.	SECTION 2. Said corporation may hold real and personal estate, necessary and convenient for the purposes aforesaid, not exceeding in amount the sum of five thousand dollars.
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SECTION 3. This act shall take effect from and after its
passage.

Approved March 27, 1858.

Chap. 126 AN ACT TO INCORPORATE THE BATTERY WHARF COMPANY.

Be it enacted, &c., as follows :

Corporators.	SECTION 1. John Revere, Frederic W. Lincoln, Paul J. Revere, their associates and successors, are hereby made a corporation by the name of the Battery Wharf Company, with power to purchase and hold in fee simple, the premises and estate known as Battery Wharf, in Boston, in the county of Suffolk, and the whole or parts of the land or flats sit-
Name.	
Power.	

- uated and lying between the land of the Constitution Wharf Company, on the north side, Commercial Street, on the west side, and the line of the street or way now leading to the People's Ferry, and the continuation of said line to the commissioners' line on the south side; with all the privileges and appurtenances to the same belonging. And the said company may construct docks and wharves upon said premises, lay vessels within and at the sides and ends thereof, and receive dockage and wharfage therefor, and improve and manage said property in such manner as to it shall seem expedient; and may sell and convey the same, or any part thereof: *provided*, that nothing herein contained shall authorize the said company to infringe upon the legal rights of any person, or to build any wharf or other structure not now authorized by law on the premises.
- SECTION 2. The capital of said company shall consist of eight hundred shares, of five hundred dollars each; and no shares shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued.
- SECTION 3. Said company shall have power at any time hereafter, with the consent of the Constitution Wharf Company, to unite with the same, and to form therewith one incorporated company, possessed of all the rights, powers and property of which the two corporations may be possessed at the time of the union, upon such terms and under whichever of the aforesaid names the corporations may adopt.
- SECTION 4. Said corporation shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, except as aforesaid, set forth in the forty-fourth chapter of the Revised Statutes. *Approved March 27, 1858.*

Location.

Privileges.

May construct docks, &c.

Proviso.

Capital \$400,000.

No shares issued under par.

May unite with Constitution Wharf Co.

Privileges, restrictions, &c.

AN ACT TO INCORPORATE THE WARD MILLS.

Be it enacted, &c., as follows :

- SECTION 1. Franklin H. Delano, Caleb Barstow, Warren Delano, junior, their associates and successors, are hereby made a corporation by the name of the Ward Mills; for the purpose of manufacturing cotton, woolen and silk cloth and yarn, at Indian Orchard, in Springfield, in the county of Hampden; and for that purpose shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes, and in the two hundred and seventy-sixth chapter of the acts of the year one thousand eight hundred and fifty-seven.

Chap. 127

Corporators.

Name.

Purpose.

Location.

Privileges, restrictions, &c.

Real estate,
\$350,000.

Whole capital not
to exceed \$600,-
000.

No shares issued
under par.

SECTION 2. The said corporation may hold, for the purposes aforesaid, real estate to the amount of three hundred and fifty thousand dollars, and the whole capital stock of said corporation shall not exceed in amount, six hundred thousand dollars.

SECTION 3. No shares in the capital stock of said corporation, shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued.

Approved March 27, 1858.

Chap. 128 AN ACT TO INCORPORATE THE EAST DOUGLAS EVERGREEN CEMETERY COMPANY.

Be it enacted, &c., as follows :

Corporators.

SECTION 1. Moses Knapp, Otis W. Hunt, Warren Hunt, Aaron M. Hill, Charles Hutchins, Albert Butler, Fenner Batcheller, Asa Thayer, Leander B. Hunt, Anderson Hunt, Edwin Moore, Joseph Hunt, Royal Keith, Jeremiah Batcheller, Joseph Batcheller, Dexter Whipple, Jeremiah B. Luther, Coriden Prentice, Lysander P. Hunt and Charles A. Hunt, their associates and successors, are hereby made a corporation, by the name of the East Douglas Evergreen Cemetery Company ; and said corporation shall have all the powers, and be subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes, except as is otherwise provided in this act.

Name.

Privileges, re-
strictions, &c.

May hold real es-
tate in Douglas.

SECTION 2. The said corporation may take and hold by purchase, or otherwise, in fee simple, for the purposes hereinafter provided, so much real estate in the town of Douglas, and may also take and hold so much personal property, as may be necessary for the objects connected with and appropriate to the purposes of said corporation.

Purpose.

SECTION 3. The said corporation shall take and hold the real estate aforesaid, for a rural cemetery or burial ground, and for the erection of tombs, cenotaphs or other monuments, for, or in memory of the dead ; and for this purpose, shall have power to lay out the same in suitable lots, or subdivisions, for family or other burying places ; to plant and embellish the same with trees, shrubbery and other rural ornaments ; to inclose and divide the same with suitable walls and fences ; and to construct and annex thereto such suitable buildings, appendages and other conveniences, as said corporation shall, from time to time, deem expedient.

Power.

May grant right
of burial, &c.

SECTION 4. The said corporation shall have authority to grant and convey to any person or persons, the sole and exclusive right of burial in any of the aforesaid lots or subdivisions, and of erecting tombs and cenotaphs, and of

ornamenting any designated lot or subdivision, upon such terms and conditions, and subject to such regulations, as said corporation shall prescribe; which right, so granted and conveyed, shall be held for the purposes aforesaid, and for no other.

SECTION 5. The real estate aforesaid shall be, and is hereby declared exempted from all public taxes, so long as the same shall remain dedicated to the purposes of a cemetery.

Real estate exempted from taxation.

SECTION 6. This act shall take effect from and after its passage.

Approved March 27, 1858.

AN ACT IN ADDITION TO "AN ACT ESTABLISHING THE CITY OF SALEM."

Chap. 129

Be it enacted, &c., as follows:

SECTION 1. The present division of the city of Salem, into six wards, shall remain until otherwise authorized by law, and four common councilmen shall be annually elected in each ward; and whenever it shall so happen that the whole number of common councilmen shall not be chosen at the meeting or meetings now provided for; or if such persons, or any of them, elected as common councilmen, shall refuse to serve, they shall, if the common council to which they are elected is not then organized, communicate such refusal in writing to the city clerk; and the mayor and aldermen shall thereupon, as soon as may be, issue a warrant for a new election to fill the places of such persons refusing to serve; and if the common council, to which such persons are elected, shall have been organized, such persons refusing to serve, shall communicate their refusal in writing to the president of the common council; and the mayor and aldermen, on being notified by the common council, of such vacancy, shall thereupon, as soon as may be, issue a warrant for a new election to fill such places; and if an alderman chosen at any election shall refuse to serve, he shall notify the mayor and aldermen of such refusal, in writing, and the mayor and aldermen shall thereupon, as soon as may be, issue their warrant for a new election to fill the place of such alderman refusing to serve.

Present division to remain.

Mode of election of aldermen and councilmen in case of a vacancy or failure to elect whole number at regular meeting.

SECTION 2. The school committee shall consist of twenty, three of whom shall be elected by the legal voters of each ward, in manner as follows:—At the next annual municipal election, each ward shall elect three school committee men, one of whom shall serve three years, one two years, and one one year; the time for which each one is to serve shall be specified on the ballot, against the name of the person voted

Number and mode of election of school committee.

Proviso.

for at the first annual municipal election, after this act shall go into effect: *provided, however*, if at any time it shall appear, on counting the votes, that any two or more of the committee shall be designated for the same term, then the person having the highest number of votes for the office shall be considered as elected for the longer term; and in each succeeding year, at the annual municipal election, each ward shall elect one school committee man, who shall serve three years; and the ward clerk shall, within twenty-four hours, deliver to each person so chosen a certificate of his election, and shall forthwith deliver to the city clerk a certified copy of the record of the election; and if it shall happen that there is a failure of an election, or if the person or persons so elected shall refuse to serve, such person or persons refusing to serve shall communicate in writing his refusal to the city clerk; and the mayor and aldermen shall thereupon, as soon as may be, issue a warrant for a new election; and if there shall be a vacancy in such committee by reason of the death, resignation or removal from the city, or otherwise, of any member of the school committee, the mayor and aldermen shall thereupon issue their warrant for an election, to be held in the ward where such vacancy occurs, to fill the remainder of the time which such member had to serve. The mayor and president of the common council shall be members *ex officio* of the school committee, and the mayor shall be chairman of the board. Such school committee shall have the same powers, and perform the same duties as they now have, and perform by law.

Mayor and president of council members *ex officio*.

Repeal.

SECTION 3. All the provisions of an act establishing the city of Salem, and of the acts additional thereto, inconsistent with the provisions of this act, are hereby repealed.

When to take effect.

SECTION 4. This act shall take effect at the next annual municipal election, after it shall have been accepted by written votes by the inhabitants of said city, at a general meeting called for that purpose, and shall have no effect until it shall be so accepted.

Approved March 27, 1858.

Chap. 130 AN ACT TO PROTECT THE HERRING FISHERIES IN THE TOWN OF FALMOUTH.

Be it enacted, &c., as follows:

Seine fishery prohibited from March to September.

SECTION 1. No person shall set down or stretch any seine or drag net of any kind, within a half mile from the mouth or outlet of any river or stream, running from any pond in Falmouth into the sea or Vineyard Sound, between Nabsque Point and Waquoit Harbor, from the twentieth day of March to the twentieth day of September, inclusive, in each year.

SECTION 2. Any person violating any of the provisions of this act, shall be liable to a fine not exceeding one hundred dollars for each offence. Penalty.

SECTION 3. All fines and penalties for violating any provision of this act, with costs, may be sued for and recovered in any court competent to try the same, on the complaint of any inhabitant of said town of Falmouth; one-half thereof to accrue to the complainant, and the other half to the Commonwealth. Fines, how recovered.

SECTION 4. All acts and parts of acts inconsistent with this act, are hereby repealed. Approved March 27, 1858.

AN ACT MAKING FURTHER APPROPRIATIONS TO PAY CERTAIN
EXPENSES INCURRED IN PREVIOUS YEARS.

Chap. 131

Be it enacted, &c., as follows :

SECTION 1. The sums hereinafter mentioned are appropriated, and shall be allowed and paid out of the treasury of the Commonwealth, from ordinary revenues, upon the warrants of the governor, for the purposes specified, in addition to the appropriations contained in chapter twenty-four of the acts of the present year, to meet certain expenses belonging to the year one thousand eight hundred and fifty-seven, and previous years, that is to say : Appropriations authorized.

For the support and relief of state paupers, otherwise than in the state almshouses and the hospital on Rainsford Island, a sum not exceeding sixty-six thousand dollars. State paupers.

To reimburse to county treasurers two-thirds of the costs of criminal prosecutions, in the manner prescribed by law, a sum not exceeding one hundred and fifty thousand dollars. County treasurers.

For the expenses of coroners' inquests, a sum not exceeding three hundred dollars. Coroners.

For unpaid accounts for stationery and newspapers, a sum not exceeding three hundred and twenty-five dollars. Stationery, &c.

For the indemnification of officers, in accordance with the provisions of chapter two hundred and seventy-one of the acts of the year one thousand eight hundred and fifty-five, a sum not exceeding three hundred dollars. Indemnification of officers.

For the expenses of the arrest of fugitives from justice, a sum not exceeding one hundred and seventy-five dollars. Arrest of fugitives.

To liquidate the indebtedness of the Massachusetts state prison on the first day of January, one thousand eight hundred and fifty-eight, including the renewal hereby of the unexpended balance of the appropriation for the library, twenty-one thousand one hundred and sixty-nine dollars and four cents; and the unexpended appropriations of former years for the raising of the prison wall and the purchase of State prison

land are hereby cancelled, so far as regards the application thereof to those purposes.

Pier at Rainsford
Island.

For the expenditures incurred in the completion of the pier at Rainsford Island, in conformity with a resolve passed at the present session of the legislature, two thousand four hundred and thirty-six dollars and five cents.

Celebration June
17, 1857.

For further payment of expenses of the celebration of the seventh of June, one thousand eight hundred and fifty-seven, a sum not exceeding one hundred and seven dollars and seventy-five cents.

Survey of Boston
Harbor.

For the final payment of the expenses incurred under the authority of chapter thirty-four of the resolves of the year one thousand eight hundred and forty-seven, relating to the survey of Boston Harbor, in conformity with a resolve passed at the present session of the legislature, one thousand five hundred and ninety-seven dollars and twenty-five cents.

Hitchcock's Re-
port.

For the necessary expenses of printing Professor Hitchcock's Report on the Sandstone of the Connecticut Valley, in accordance with chapter eighty-three of the resolves of the year one thousand eight hundred and fifty-seven, and a further resolve passed the present year, a sum not exceeding five thousand three hundred dollars.

New Plymouth
Records.

To continue the printing of the New Plymouth Records, under the direction of the secretary of the Commonwealth, a sum not exceeding ten thousand dollars.

Public docu-
ments.

For printing the public series of documents, a sum not exceeding three thousand seven hundred dollars.

State almshouses

For unpaid expenses of the state almshouses, a sum not exceeding two thousand dollars.

SECTION 2. This act shall take effect from and after its passage.

Approved March 27, 1858.

Chap. 132

AN ACT DEFINING THE SALARY OF THE SUPERINTENDENT OF ALIEN PASSENGERS.

Be it enacted, &c., as follows :

Salary estab-
lished.

SECTION 1. The salary of the superintendent of alien passengers is hereby established at the sum of two thousand dollars per annum, to be computed at that rate, from the first day of January, in the year one thousand eight hundred and fifty-eight; said salary to be full compensation for all services rendered to the Commonwealth, by said superintendent, as alien commissioner or otherwise.

SECTION 2. This act shall take effect from and after its passage.

Approved March 27, 1858.

AN ACT IN RELATION TO CONVEYANCES AND DEVISES OF ESTATES *Chap. 133*
FOR RELIGIOUS PURPOSES.

Be it enacted, &c., as follows :

SECTION 1. No grant, conveyance, bequest, devise or lease of any real or personal estate consecrated, dedicated or appropriated, or intended to be consecrated, dedicated or appropriated to the purposes or support of religious or public worship, for the use of any parish, congregation or society, shall vest any right, title or interest in any person or persons to whom such grant, conveyance, bequest, devise or lease may be made, except as may be now provided for by the statutes of this Commonwealth ; unless the same shall be made to or for a parish, religious society or corporation, organized according to the provisions of the laws of this Commonwealth, relating to parishes and religious societies. But nothing herein contained shall prevent any such parish, religious society or corporation, from conveying such property on a *bona fide* sale thereof according to law.

Conveyance of estate for religious purposes to vest no right in individual except, &c., unless, &c.

SECTION 2. Section second of the three hundred and fourteenth chapter of the acts of the year eighteen hundred and fifty-five, is hereby repealed. *Approved March 27, 1858.*

AN ACT FIXING THE SALARIES OF THE REGISTERS OF THE COURT OF *Chap. 134*
INSOLVENCY FOR THE COUNTIES OF MIDDLESEX AND WORCESTER.

Be it enacted, &c., as follows :

The register of the court of insolvency for the county of Middlesex, and the register of the court of insolvency for the county of Worcester, shall, for the current year of eighteen hundred and fifty-eight, receive for their services as registers, the sum of fourteen hundred dollars each, to be paid in the manner, and at the times now by law provided.

Salaries established.

Approved March 27, 1858.

AN ACT RELATING TO CRIMINAL JURISDICTION IN BOSTON HARBOR. *Chap. 135*

Be it enacted, &c., as follows :

SECTION 1. The courts in the county of Suffolk shall, concurrently with the courts of other counties, in which the territory hereinafter described is situated, have jurisdiction of all crimes, offences and misdemeanors, which shall be hereafter committed on either of the islands, or any of the waters, in Boston Harbor, which lie westerly of a line drawn from Point Alderton to the eastern-most point of the outer Brewster Island, and from thence to Short Beach, at the line dividing the towns of North Chelsea

Courts in Suffolk county to have concurrent jurisdiction with courts of other counties.

and Winthrop; and all such crimes, offences and misdemeanors may be prosecuted and punished in the courts in the county of Suffolk, as fully and effectually, as they might be prosecuted and punished therein, if the said islands and waters were within the territorial limits of the county of Suffolk.

SECTION 2. This act shall take effect from and after its passage.

Approved March 27, 1858.

Chap. 136 AN ACT TO ESTABLISH A POLICE COURT IN THE TOWN OF GLOUCESTER.

Be it enacted, &c., as follows:

Court established.

SECTION 1. A police court is hereby established in the town of Gloucester, to consist of one competent and discreet person as standing justice, to be appointed and commissioned by the governor pursuant to the constitution.

Jurisdiction in Gloucester.

SECTION 2. The said court shall have original and exclusive jurisdiction, over all crimes, offences and misdemeanors committed within said town of Gloucester, whereof justices of the peace now have, or may have jurisdiction; also of all suits and actions which may now, or at any time hereafter, be heard, tried and determined before any justice of the peace in the county of Essex, whenever all the parties shall reside in Gloucester, and service of the writ is had on the defendant in said county. The said court shall have original and concurrent jurisdiction with justices of the peace in said county of Essex, over all crimes, offences and misdemeanors, whereof justices of the peace within the county of Essex, now or may have jurisdiction; also, of all suits and actions within the jurisdiction of any justice of the peace within the county of Essex. Any justice of the peace within said town of Gloucester, may receive complaint, and issue a warrant, for any crime, offence or misdemeanor committed within said town; but all such warrants shall be returnable before said police court; and no justice of the peace shall be allowed any fees for any warrant issued for any crime, offence or misdemeanor committed in said town.

Jurisdiction in Essex county.

Jurisdiction not limited by reason, &c.

SECTION 3. The jurisdiction of said police court shall not be limited, by reason of any interest on the part of the justices of said court, in the payment of fines, forfeitures or costs, into the treasury of said town of Gloucester.

Appeals.

SECTION 4. An appeal shall be allowed from all judgments of said police court, in like manner, and to the same extent, as appeals are now or may hereafter be allowed by law, from judgments by justices of the peace; and neither the standing justice nor the special justice, shall be counsel in any court, for any party, in any cause which may at

any time have been or may be pending before said police court.

SECTION 5. All fines and forfeitures, and all costs in criminal prosecutions, which shall be received by or paid into the hands of the standing justice of said court, shall be by him accounted for and paid over to the same persons, in the same manner, and under the same penalties as are by law prescribed in the case of justices of the peace, except as is hereinafter provided; all costs not thus received shall be made up, taxed and allowed, and shall be paid in like manner as is provided by law, in like cases, in regard to justices of the peace.

Fines, forfeitures, &c.; how accounted for.

SECTION 6. The standing justice of said court shall retain to his own use all fees by him received, or which now accrue to justices of the peace in civil actions and criminal prosecutions, in full compensation for all services assigned to him by the provisions of this act: *provided*, that he shall not retain for his services in criminal prosecutions, including the issue of warrants in his official capacity, or as justice of the peace, a sum exceeding six hundred dollars, annually; but shall, on or before the tenth day of January, annually, account with and pay over to the county treasurer of said county, all fines and forfeitures paid or received by him, and the balance of criminal fees and costs in his hands, over and above that sum.

Compensation of standing justice.

Proviso.

SECTION 7. A court shall be held at some convenient place in said town of Gloucester, to be provided at the expense of said standing justice, three times in each week, and as much oftener as shall be requisite, to take cognizance of criminal cases, and once in each week, and oftener if requisite, for the trial of civil causes. And said standing justice shall have power to make all proper rules for the due and orderly conduct of the business of said court.

Court, how often to be held.

SECTION 8. The said justice shall keep a fair record of all proceedings in said court, and shall make return to the several courts of all legal processes, and of his doings therein, in the same manner as justices of the peace are now by law required to do.

Shall keep record and make return.

SECTION 9. There shall be appointed by the governor, by and with the consent of the council, one special justice of said court, who shall have power in case of the absence, sickness, interest or any other disability of the standing justice, to issue the processes of said court, to hear and determine any matter or cause pending, and to exercise all the powers of the standing justice, until such disability be removed. The said special justice shall be paid for the

One special justice.

Compensation.

services by him performed, out of the fees received in said court, such sum as the standing justice would be entitled to for the same services: *provided, however*, that the amount received by both the standing and special justices, for services in the criminal prosecutions in any one year, shall not exceed the sum of six hundred dollars.

Pending suits. SECTION 10. All suits, actions and prosecutions, which shall be pending within the town of Gloucester before any justice of the peace, when this act shall take effect, and the standing justice of the police court shall have been duly appointed and qualified, shall be heard and determined as though this act had not passed.

Appointment of justices. SECTION 11. The governor shall have power, by and with the advice and consent of the council, to appoint said standing and special justices at any time after receiving notice of the acceptance of this act by the town of Gloucester, as hereinafter mentioned.

Act to be accepted by the town. SECTION 12. This act shall be void unless the inhabitants of the town of Gloucester, at a legal meeting called for that purpose, shall accept the same within sixty days from the passage hereof; and it shall be the duty of the selectmen and town clerk of said town of Gloucester, in case of such acceptance, to certify the fact to the governor of the Commonwealth.

Approved March 27, 1858.

Chap. 137.

AN ACT CONCERNING THE PARTITION OF REAL ESTATE.

Be it enacted, &c., as follows:

Powers of judges of probate extended to cases in which any estate is devised, &c., to persons not in being at time of application for partition.

The powers vested in the judges of probate, by the one hundred and third chapter of the Revised Statutes, are hereby extended to cases in which any remainder or estate is or may be devised or limited to, or in trust for any person or persons not in being at the time of application for partition, upon notice given to the parents, or parent if one only be living, of such persons in the manner prescribed by the chapter aforesaid, setting forth the origin and nature of the remainder or interest so devised or limited; and it shall be the duty of the judge, in taking jurisdiction under this act, to appoint a suitable and competent person to appear and act as the next friend of the persons, to whom, or in trust for whom, any such remainder or interest is or shall be devised or limited, in all proceedings touching such partition, the cost of whose appearance and services, including compensation of counsel, to be determined by the court, shall be paid by the person or persons applying for such partition: and the partition made in such case shall be conclusive upon all persons, to whom such estate or remainder

is devised or limited, in the same manner as if they had been in being, and had appeared and answered in the case, or assented to such partition. And execution for the costs and services aforesaid may be issued in the name of such person appointed to act as next friend against the applicants for such partition.

Approved March 27, 1858.

AN ACT TO PROVIDE FOR THE BETTER ADMINISTRATION OF THE
CRIMINAL LAW.

Chap. 138

Be it enacted, &c., as follows :

SECTION 1. The governor, with the advice and consent of the council, shall designate and commission a suitable number of the justices of the peace in the several counties, to try criminal cases; and the justices of the peace so designated and commissioned, shall continue to have and exercise, within their respective counties, all the powers, authority and jurisdiction in criminal cases, and the examination, trial and punishment of offenders, that justices of the peace now have: and no justice of the peace not designated and commissioned to try criminal cases as above provided, shall hereafter have or exercise any power, authority or jurisdiction in criminal cases, except to receive complaints and issue warrants; and all warrants issued by any justice of the peace in criminal cases, shall be made returnable before some justice of the peace commissioned to try criminal cases, or before some police court: and no fees shall be allowed or paid for any complaint or warrant received or issued by any justice of the peace not commissioned as above provided.

Governor to designate and commission justices.

Powers, &c.

SECTION 2. The number of justices of the peace, designated and commissioned to try criminal cases, as provided in the preceding section, shall not, at any one time, exceed,

Number of justices in each county.

For the county of Suffolk, one;
For the county of Middlesex, thirty;
For the county of Essex, nineteen;
For the county of Worcester, twenty-six;
For the county of Hampshire, eight;
For the county of Hampden, eight;
For the county of Franklin, eight;
For the county of Berkshire, nine;
For the county of Norfolk, seventeen;
For the county of Bristol, thirteen;
For the county of Plymouth, fifteen;
For the county of Barnstable, nine;
For the county of Dukes county, two;
For the county of Nantucket, two;

Authority to
cease on change
of domicile.

and shall be distributed as nearly as may be, as the convenience of the several counties may require: and if any such justice, after having been so designated and commissioned, shall change his domicile, his authority and jurisdiction in the trial and examination of criminal cases, shall thereupon cease, and some other justice of the peace may be designated and commissioned, to try criminal cases in his place.

Not to affect
pending cases,
&c.

SECTION 3. Nothing in this act contained shall affect any case or proceeding pending at the time it shall go into operation, or the jurisdiction of any police court, nor give jurisdiction to any justice of the peace of any offence committed in any city or town wherein a police court is established.

When to take ef-
fect.

SECTION 4. This act shall take effect from and after the first day of July next; but the governor shall have power, by and with the advice and consent of the council, to designate and commission the justices of the peace to try criminal cases, at any time after its passage. *Approved March 27, 1858.*

Chap. 139

AN ACT FOR THE BETTER PRESERVATION OF SHEEP FROM THE RAVAGES OF DOGS.

Be it enacted, &c., as follows:

Owners to regis-
ter dogs, &c.

SECTION 1. The owner or owners of any dog or dogs within the limits of any town or city within this Commonwealth, are hereby required, on or before the first day of May in each year, to cause such dogs to be registered and numbered in the office of the clerk of the town or city where such owner or owners reside. And it shall be the duty of said clerk to register and number said dogs, and he shall receive five cents for each dog so registered, to be paid by the owner or owners of said dog or dogs. And in case any such owner or owners shall refuse or neglect thus to register and number such dog or dogs, it shall be right and lawful for any person to kill any such dog or dogs going at large; and it shall be the duty of any sheriff, deputy-sheriff or constable residing in such town or city, to cause such dog or dogs to be destroyed, whenever called upon so to do by any legal voter in said town or city; and said officer shall receive from the treasury of said town or city the sum of fifty cents for every dog so destroyed.

Penalty.

Duty of assessors.

SECTION 2. It shall be the duty of the assessors of the several towns and cities in this state, to cause all dogs to be entered upon the assessment lists of persons owning such dogs; and all dogs shall be presumed to be owned by the occupier of the premises where such dogs are kept. And the owner or owners of all dogs so registered, and put upon

Registered dogs
to wear collar.

the assessment list as aforesaid, shall cause the said dogs to wear around their necks a collar, with the registered number of said dog, and the owner's name, marked or engraved thereon; and any person killing or maiming said dog, without justifiable cause, shall be liable for damages in an action of tort, for the reasonable value of said dog.

Penalty for killing.

SECTION 3. The owner or owners of all dogs shall pay an annual tax into the treasury of the town or city where such dogs are kept, to be collected with, and in the same manner, as the ordinary town taxes, of one dollar for every male dog, and five dollars for every female dog. And in case such tax is not paid on or before the first day of July, in each year, the dog or dogs thus taxed, shall be liable to be destroyed as provided in the first section of this act.

Owners to pay annual tax.

Penalty.

SECTION 4. All moneys collected by virtue of this act, and paid into the treasury of the towns and cities aforesaid, shall be kept by the treasurers of such towns or cities, as a separate fund to be known as the dog fund. And whenever any person or persons residing in any town or city in this Commonwealth, shall suffer loss by reason of the maiming or killing of any sheep or lambs by any dog or dogs, the selectmen of such town or the mayor of such city, shall, upon satisfactory proof of the same, and of the value of the sheep or lambs so maimed or killed, draw an order for the amount of damage the owner shall have received, on the treasurer of said town or city, payable from the said dog fund; and the said treasurer shall register all such orders at the time of their presentation, and shall annually on the first day of March, pay said orders in full, if the said fund shall be sufficient for their full payment; but if said fund shall be insufficient to pay said orders in full it shall be divided *pro rata*, on all said orders, and in full discharge of the same. And in case the said fund shall be more than sufficient to pay said orders, the balance shall be divided *pro rata*, on the first day of March, annually, among the persons of whom it shall have been collected.

Money thus collected to constitute dog fund. Distribution of fund.

SECTION 5. Whenever the selectmen of any town, or the mayor of any city, shall have drawn an order as provided in the fourth section of this act, it shall be the duty of said selectmen or mayor, to institute an inquiry into the ownership of such dog or dogs as may have committed the maiming or killing aforesaid, and in their discretion to commence a suit against the owner or owners of said dog or dogs, if they can be ascertained, and are citizens of this Commonwealth, for the amount of such order, unless such owner or owners shall promptly pay to the treasurer of such

Proceedings against owners of dogs maiming or killing sheep.

town or city where such sheep or lambs were maimed or killed, the amount of such order, and all reasonable charges attending the same; and the selectmen of the town or mayor of the city where the dog or dogs doing such damage are owned, shall cause all dogs known and proved to have killed any sheep or lambs as aforesaid, to be destroyed as provided in the first section of this act: *provided, however*, that the owner or owners of such dog or dogs may compound for the life of said dog or dogs, on such terms as shall be agreed upon between the said owner or owners and the selectmen of such town or the mayor of such city.

Proviso.

Penalty on public officers refusing, &c.

SECTION 6. Any mayor, selectman, sheriff, deputy-sheriff or constable, who shall refuse or neglect to perform any of the duties imposed upon him by this act, shall, for every such refusal or neglect, forfeit and pay the sum of five dollars, which shall go to and become a part of the dog fund of the city or town in which such officer resides.

Repeal.

SECTION 7. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

Act not to apply to cities unless accepted.

SECTION 8. Nothing in this act shall apply to any city in this Commonwealth, unless the same shall have been accepted by a vote of the city council of such city.

SECTION 9. This act shall take effect from and after its passage.

Approved March 27, 1858.

Chap. 140 AN ACT MAKING FINAL APPROPRIATIONS FOR THE HOSPITAL FOR THE INSANE, AT NORTHAMPTON.

Be it enacted, &c., as follows :

Appropriations to complete hospital.

SECTION 1. The sum of fifty-eight thousand dollars, or so much thereof as may be necessary, is hereby appropriated from the ordinary revenue, in lieu of any unpaid balances of former appropriations, all of which balances are hereby cancelled, to complete in all respects the construction and equipment of the hospital for the insane at Northampton, to be applied under the direction of the board of trustees of said hospital, as follows :

To complete the construction of the hospital, in addition to two hundred and forty-two thousand five hundred and sixty-one dollars and eighty-two cents, heretofore paid by the commissioners appointed under chapter four hundred and fifty-four of the acts of the year one thousand eight hundred and fifty-five, there is hereby appropriated a sum not exceeding eleven thousand six hundred and ninety-six dollars.

To complete the furnishing and providing the hospital for occupancy, including grading the grounds and making all necessary preparations whatsoever for the reception of

patients, in addition to fourteen thousand two hundred and twenty-one dollars and ten cents, already expended, there is hereby appropriated a sum not exceeding thirty-four thousand six hundred and thirty-eight dollars and seventy-three cents.

To provide a working capital to be used in the purchase of provisions and other necessary articles of current consumption, in anticipation of the receipts from patients, a sum not exceeding ten thousand dollars.

To meet any contingencies that may arise during the present year for which other appropriations may be insufficient, a sum not exceeding one thousand six hundred and sixty-five dollars and twenty-seven cents.

SECTION 2. This act shall take effect from and after its passage.

Approved March 27, 1858.

AN ACT CONCERNING THE ASSIGNEES OF INSOLVENTS.

Be it enacted, &c., as follows:

SECTION 1. In all cases arising under the insolvent laws of this Commonwealth, the choice of assignee or assignees made by the creditors, shall be subject to the approval of the judge of insolvency; and whenever, from any cause, it shall, in his judgment, be needful or expedient, he may order a new election, and may remove the assignees already chosen; or, he may add by his own appointment, one or more assignees to those already chosen.

SECTION 2. No election of assignees shall be held except at a regular meeting, or a meeting called for that purpose; nor until after all known creditors of the insolvent shall, in such manner and by such person as the judge shall prescribe, be notified thereof in writing.

SECTION 3. Any assignee may resign his trust, and may be discharged therefrom, if the judge shall accept his resignation; and any vacancy created in the office of assignee may be filled by election, or by appointment of the court, as the judge shall determine: *provided*, that no resignation or removal of any assignee shall, in any way, release him from the duty of doing and performing all things requisite on his part, for the proper closing up of his trust, and the transmission thereof to his successors; nor shall the same in any way affect the liability of the principal or any surety on the official bond given by the assignee in the case.

SECTION 4. In case of any such removal or resignation, the judge of insolvency may pass all lawful orders he may deem expedient, to secure the proper fulfilment of the duties of the assignee so removed or resigned, under the circum-

Chap. 141

Choice of assignee subject to approval of judge, &c.

Election of assignees to be held only at regular meetings, &c.

Resignation of assignee. Judge to determine manner of filling vacancy.

Proviso.

In case of removal, &c., of assignee, judge to pass orders for fulfilment of duties.

stances of the case, and to secure the just rights and interests of all persons interested in the distribution of the assets of the insolvent.

Register to administer oath, except oath of debtor.

SECTION 5. The register of insolvency may administer all oaths required in the course of proceedings before the court of insolvency, except the oath contained in the seventh section of the one hundred and sixty-third chapter of the statutes of the year eighteen hundred and thirty-eight.

Approved March 27, 1858.

Chap. 142

AN ACT CONCERNING FEES IN CERTAIN CASES IN INSOLVENCY.

Be it enacted, &c., as follows :

Fees to be allowed to judges and registers, in cases transferred from commissioners.

When, by reason of the death or disability of any commissioner of insolvency, the cases pending before him are transferred to the court of insolvency, the judge and register of said court shall be allowed, in addition to the salaries and fees now fixed by law, the same fees for services performed by them in such cases, as such commissioner and his clerk would have been allowed by law for the same ; to be equally divided between the judge and register.

Approved March 27, 1858.

Chap. 143

AN ACT IN RELATION TO LIMITED PARTNERSHIPS.

Be it enacted, &c., as follows :

Style of firm when more than three general partners.

From and after the passage of this act, whenever in any limited partnership, the firm shall consist of more than three general partners, the names of all such general partners shall not be required to be inserted in the style of the firm.

Approved March 27, 1858.

Chap. 144

AN ACT TO PROTECT THE RIGHTS OF STOCKHOLDERS IN CORPORATIONS.

Be it enacted, &c., as follows :

Treasurer to keep accurate list of stockholders, &c.

SECTION 1. The treasurer or cashier, as the case may be, of every corporation, shall, at all times, keep an accurate list of all its stockholders with the number of shares owned by each stockholder, which list shall, at all times, upon written application to such officer, by any stockholder in such corporation, be exhibited for his inspection.

Penalty for refusing.

SECTION 2. If any such officer shall refuse, upon such application, so to exhibit such list, he shall forfeit to the use of the Commonwealth, for each offence, the sum of fifty dollars, to be recovered upon complaint before any magistrate or court of competent jurisdiction.

Approved March 27, 1858.

AN ACT IN RELATION TO SCHOOL DISTRICTS.

Chap. 145

Be it enacted, &c., as follows :

SECTION 1. All sums of money expended by order of the general school committee in repairing, enlarging, or in the erection of new school-houses in any unorganized school district, shall be assessed upon the inhabitants of such district.

Money expended in erecting new school-houses in unorganized districts; how assessed.

SECTION 2. This act shall take effect from and after its passage.

Approved March 27, 1858.

AN ACT TO INCORPORATE THE PACIFIC PRINT WORKS.

Chap. 146

Be it enacted, &c., as follows :

SECTION 1. J. Huntington Wolcott, Abbott Lawrence and Benjamin E. Bates, their associates and successors, are hereby made a corporation by the name of the Pacific Print Works, for the purpose of manufacturing and printing worsted, woolen, silk and cotton goods, in the city of Lawrence, in the county of Essex; and for these purposes shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes, and in the two hundred and seventy-sixth chapter of the acts of the year eighteen hundred and fifty-seven.

Corporators.

Name.

Purpose.

Location.

Privileges, restrictions, &c.

SECTION 2. The capital stock of said corporation shall be twenty-five hundred thousand dollars, and it may hold real estate to the amount of twelve hundred and fifty thousand dollars.

Capital \$2,500,000.
Real estate \$1,250,000.

SECTION 3. No shares in the capital stock of said corporation shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued.

No shares issued under par.

Approved March 27, 1858.

AN ACT TO AUTHORIZE EDMUND T. DANA AND OTHERS TO CONSTRUCT DAMS AND DIKES IN CAMBRIDGE.

Chap. 147

Be it enacted, &c., as follows :

SECTION 1. Edmund T. Dana, Martha R. Allston, Sarah A. Dana and Edmund T. Hastings, proprietors of marsh lands in Cambridge, lying between the Main Street or causeway, on the north; the south-eastern line of the location of the Grand Junction Railroad and Depot Company, on the south-east; the upland denominated Pine Grove, on the south; and Brookline Street, on the west, are hereby authorized to construct and maintain, for themselves, their

Owners of marsh lands to construct dikes, &c.

Boundary, &c.

heirs and assigns, forever, dams or dikes extending from the said upland to the said causeway, along the marshes, and across the coves or creeks which intersect the same, so as to exclude from said marshes the tide-waters of Charles River: *provided, however*, that no part of said dikes or dams shall be built upon said location without the consent of the said company, by a vote of the directors thereof; and *provided, also*, that proper sluiceways shall be made and forever maintained for the drainage of all the lands so inclosed, and that the main drains of the city of Cambridge, which do, or shall intersect said marshes, shall be furnished with suitable sluiceways, under the direction of the mayor and aldermen of said city, and agreeably to the laws of this Commonwealth, concerning drains and sewers; and *provided, moreover*, that this grant shall in no wise impair the legal rights of any person or corporation.

Provided, further SECTION 2. This act shall be inoperative unless such dams or dikes be constructed within two years from the passage hereof.

Act to be inoperative, unless, &c. SECTION 3. This act shall take effect from and after its passage.

Approved March 27, 1858.

Chap. 148 AN ACT MAKING APPROPRIATIONS TO MEET CERTAIN EXPENDITURES AUTHORIZED THE PRESENT YEAR.

Be it enacted, &c., as follows:

Appropriations for 1858. SECTION 1. The sums hereinafter mentioned are appropriated, and shall be allowed and paid out of the treasury of this Commonwealth, from the ordinary revenue, upon the warrants of the governor, for the purposes specified in certain resolves for the present year herein cited, as follows:

School for Idiotic and Feeble-Minded Youth. In the resolve in favor of the Massachusetts School for Idiotic and Feeble-Minded Youth, in addition to the sum appropriated in chapter eleven of the acts of the present year, two thousand five hundred dollars;

Charitable Eye and Ear Infirmary. In the resolve in favor of the Massachusetts Charitable Eye and Ear Infirmary, two thousand five hundred dollars;

Suppression of counterfeiting. In the resolve granting aid for the suppression of counterfeiting bank bills and coin, one thousand five hundred dollars;

Board of Agriculture. In the resolve in favor of the State Board of Agriculture, four thousand dollars;

Darius A. Martin. In the resolve on the petition of Darius A. Martin, a sum not exceeding one hundred dollars;

William H. Ela. In the resolve in favor of William H. Ela, three thousand five hundred dollars;

In the resolve in favor of Albert H. Nelson, late chief justice of the superior court of the county of Suffolk, one thousand seven hundred and thirty-four dollars; Albert H. Nelson.

In the resolve in relation to the State Industrial School for Girls, four hundred dollars; Industrial School for Girls.

In the resolve on the petition of Alfred Flanders, one hundred and fifty-four dollars and seventy-three cents; Alfred Flanders.

In the resolve on the petition of William L. Bemis, fifty dollars; William L. Bemis

In the resolve on the petition of John McGrath, two hundred and fifty dollars; John McGrath.

In the resolve on the petition of John Rhodes, a sum not exceeding one hundred and fifty-two dollars and fifty-eight cents; John Rhodes.

In the resolve in aid of the erection of a fence around Fort Washington, two thousand dollars; Fence round Fort Washington.

In the resolve for the appointment of a joint special committee on public charitable institutions, a sum not exceeding nine hundred dollars; Committee on public charitable institutions.

In the resolve in favor of Allen Cummings, ninety-four dollars; Allen Cummings.

In the resolve in favor of Horace I. Hodges, two hundred and twenty-five dollars. Horace I. Hodges

SECTION 2. This act shall take effect from and after its passage.

Approved March 27, 1858.

AN ACT TO APPORTION AND ASSESS A STATE TAX OF THREE HUNDRED AND FIFTY-NINE THOUSAND NINE HUNDRED AND EIGHTY-EIGHT DOLLARS.

Chap. 149

Be it enacted, &c., as follows :

SECTION 1. Each city and town in this Commonwealth shall be assessed and pay the several sums with which they stand respectively charged in the following schedule; that is to say : Cities and towns assessed.

SUFFOLK COUNTY.

Boston, . . .	One hundred eighteen thousand four hundred twenty-nine dollars, . . .	\$118,429 00
Chelsea, . . .	Two thousand one hundred seventeen dollars, ...	2,117 00
North Chelsea, .	Four hundred sixty-four dollars, . . .	464 00
		\$121,010 00

ESSEX COUNTY.

Amesbury, . . .	Six hundred eighty-eight dollars, . . .	\$688 00
Andover, . . .	One thousand nine hundred thirty-three dollars, ...	1,933 00
Beverly, . . .	One thousand three hundred eighty-six dollars, ...	1,386 00
Boxford, . . .	Three hundred thirty-five dollars, . . .	335 00
Bradford, . . .	Two hundred forty-five dollars, . . .	245 00
Danvers, . . .	Two thousand ninety-nine dollars, . .	2,099 00
Essex, ...	Four hundred three dollars, ...	403 00
Georgetown, . .	Four hundred seventy-two dollars, . .	472 00
Gloucester, . .	One thousand five hundred ninety-one dollars, ...	1,591 00
Groveland, . . .	Two hundred seventy dollars, ...	270 00
Hamilton, . . .	Two hundred seventy-seven dollars, .	277 00
Haverhill, . . .	One thousand four hundred fifty-eight dollars, ...	1,458 00
Ipswich, ...	Six hundred eighty-eight dollars, . . .	688 00
Lawrence, . . .	Three thousand five hundred sixty-eight dollars, ...	3,568 00
Lynn, ...	Two thousand seven hundred eighty-three dollars, ...	2,783 00
Lynnfield, . . .	Two hundred twenty-three dollars, . .	223 00
Manchester, . . .	Three hundred thirty-eight dollars, . .	338 00
Marblehead, . .	One thousand three hundred twenty-five dollars, ...	1,325 00
Methuen, ...	Six hundred seventy-three dollars, . .	673 00
Middleton, . . .	One hundred ninety-eight dollars, . . .	198 00
Newbury, ...	Four hundred fourteen dollars, ...	414 00
Newburyport, . .	Three thousand three hundred forty-four dollars, ...	3,344 00
Rockport, ...	Four hundred ninety-seven dollars, . .	497 00
Rowley, ...	Two hundred ninety-two dollars, . . .	292 00
Salem, ...	Seven thousand nine hundred ninety-nine dollars, ...	7,999 00
Salisbury, ...	Six hundred sixty-six dollars, ...	666 00
Saugus, ...	Three hundred twenty-eight dollars, .	328 00

ESSEX COUNTY—CONTINUED.

Topsfield, . . .	Three hundred two dollars, ...	\$302 00
Wenham, . . .	Two hundred forty-eight dollars, . .	248 00
West Newbury, .	Three hundred eighty-two dollars, . .	382 00
		\$35,425 00

MIDDLESEX COUNTY.

Acton, ...	Three hundred sixty dollars, ...	\$360 00
Ashby, ...	Three hundred sixty-six dollars, . . .	366 00
Ashland, . . .	Two hundred eighty-one dollars, . . .	281 00
Bedford, . . .	Two hundred thirty dollars, ...	230 00
Billerica, . . .	Five hundred twenty-nine dollars, . .	529 00
Boxborough, . .	One hundred forty-eight dollars, . . .	148 00
Brighton, . . .	Nine hundred seventy-nine dollars, . .	979 00
Burlington, . .	One hundred eighty dollars, ...	180 00
Cambridge, . . .	Six thousand two hundred twenty-eight dollars, ...	6,228 00
Carlisle, . . .	Two hundred five dollars, ...	205 00
Charlestown, . .	Five thousand two hundred seventy dollars, ...	5,270 00
Chelmsford, . .	Six hundred five dollars, ...	605 00
Concord, . . .	Seven hundred seventy dollars, ...	770 00
Dracut, ...	Four hundred fifty dollars, ...	450 00
Dunstable, . . .	Two hundred and twenty dollars, . . .	220 00
Framingham, . .	One thousand one hundred eighty-one dollars, ...	1,181 00
Groton, ...	Eight hundred sixty-four dollars, . . .	864 00
Holliston, . . .	Five hundred fifty-four dollars, ...	554 00
Hopkinton, . . .	Six hundred sixteen dollars, ...	616 00
Lexington, . . .	Seven hundred thirteen dollars, ...	713 00
Lincoln, ...	Two hundred eighty-eight dollars, . . .	288 00

MIDDLESEX COUNTY—CONTINUED.

Littleton, . . .	Two hundred ninety-five dollars, . . .	\$295 00
Lowell, . . .	Ten thousand three hundred twenty-five dollars, ...	10,325 00
Malden, . . .	One thousand eighty dollars, ...	1,080 00
Marlborough, .	Seven hundred seventy dollars, . . .	770 00
Medford, . . .	One thousand four hundred fifty-eight dollars, ...	1,458 00
Melrose, . . .	Three hundred twenty-four dollars, .	324 00
Natick, . . .	Six hundred thirty-seven dollars, . .	637 00
Newton, . . .	One thousand nine hundred four dollars, ...	1,904 00
Pepperell, . .	Four hundred seventy-nine dollars, .	479 00
Reading, . . .	Seven hundred twenty-seven dollars, .	727 00
Sherborn, . . .	Three hundred twenty-four dollars, .	324 00
Shirley, . . .	Three hundred fifty-six dollars, . . .	356 00
Somerville, . .	One thousand two hundred thirty-eight dollars, ...	1,238 00
S. Reading, . .	Five hundred eleven dollars, ...	511 00
Stoneham, . . .	Three hundred sixty-seven dollars, . .	367 00
Stow, ...	Three hundred ninety-two dollars, . .	392 00
Sudbury, . . .	Five hundred sixty-two dollars, . . .	562 00
Tewksbury, . .	Three hundred eighty-two dollars, . .	382 00
Townsend, . . .	Five hundred forty dollars, ...	540 00
Tyngsborough, .	Two hundred ninety-five dollars, . . .	295 00
Waltham, . . .	One thousand six hundred seventy dollars, ...	1,670 00
Watertown, . .	One thousand three hundred seventy-five dollars, ...	1,375 00
Wayland, . . .	Three hundred ten dollars, ...	310 00
W. Cambridge, .	Nine hundred ninety dollars, ...	990 00
Westford, . . .	Four hundred ninety-seven dollars, .	497 00
Weston, ...	Four hundred thirty-two dollars, . . .	432 00
Wilmington, . .	Two hundred fifty-six dollars, ...	256 00

MIDDLESEX COUNTY—CONTINUED.

Winchester, . .	Four hundred ten dollars, ...	\$410 00
Woburn, . . .	One thousand two hundred six dollars,	1,206 00
		\$51,149 00

WORCESTER COUNTY.

Ashburnham, .	Four hundred fifty dollars, ...	\$450 00
Athol, ...	Four hundred thirty-nine dollars, . .	439 00
Auburn, . . .	Two hundred fifty-nine dollars, . . .	259 00
Barre, ...	Eight hundred eighty-nine dollars, . .	889 00
Berlin, ...	One hundred eighty-four dollars, . . .	184 00
Blackstone, . .	One thousand one hundred twenty-three dollars, ...	1,123 00
Bolton, ...	Three hundred thirty-five dollars, . .	335 00
Boylston, . . .	Two hundred eighty-one dollars, . . .	281 00
Brookfield, . .	Four hundred eighteen dollars, ...	418 00
Charlton, . . .	Five hundred ninety-eight dollars, . .	598 00
Clinton, ...	Five hundred ninety dollars, ...	590 00
Dana, ...	One hundred fifty-one dollars, ...	151 00
Douglas, ...	Four hundred fifty-four dollars, . . .	454 00
Dudley, ...	Four hundred ten dollars, ...	410 00
Fitchburg, . . .	One thousand three hundred fourteen dollars, ...	1,314 00
Gardner, ...	Three hundred seventy-one dollars, . .	371 00
Grafton, ...	Eight hundred ninety-six dollars, . . .	896 00
Hardwick, . . .	Five hundred eleven dollars, ...	511 00
Harvard, ...	Four hundred seventy-five dollars, . .	475 00
Holden, ...	Five hundred dollars, ...	500 00
Hubbardston, .	Four hundred twenty-five dollars, . . .	425 00
Lancaster, . . .	Four hundred twenty-five dollars, . . .	425 00

WORCESTER COUNTY—CONTINUED.

Leicester, . . .	Seven hundred fifty-two dollars, . . .	\$752 00
Leominster, . . .	Eight hundred fourteen dollars, . . .	814 00
Lunenburg, . . .	Three hundred ninety-six dollars, . . .	396 00
Mendon, . . .	Four hundred twenty-one dollars, . . .	421 00
Milford, . . .	Eight hundred seventy-five dollars, . . .	875 00
Millbury, . . .	Six hundred fifty-nine dollars, . . .	659 00
New Braintree, .	Three hundred twenty-eight dollars, .	328 00
North Brookfield,	Four hundred forty-three dollars, . .	443 00
Northborough, .	Four hundred three dollars, ...	403 00
Northbridge, . .	Four hundred thirty-nine dollars, . .	439 00
Oakham, . . .	Two hundred seventy dollars, . . .	270 00
Oxford, . . .	Six hundred twenty-three dollars, . .	623 00
Paxton, . . .	One hundred ninety-eight dollars, . .	198 00
Petersham, . . .	Four hundred ninety-three dollars, . .	493 00
Phillipston, . . .	Two hundred thirty-eight dollars, . .	238 00
Princeton, . . .	Three hundred eighty-nine dollars, . .	389 00
Royalston, . . .	Four hundred seventy-five dollars, . .	475 00
Rutland, . . .	Three hundred thirty-one dollars, . .	331 00
Shrewsbury, . . .	Five hundred four dollars, ...	504 00
Southborough, .	Three hundred eighty-five dollars, . .	385 00
Southbridge, . .	Seven hundred twenty dollars, . . .	720 00
Spencer, . . .	Five hundred forty-seven dollars, . .	547 00
Sterling, . . .	Five hundred four dollars, ...	504 00
Sturbridge, . . .	Five hundred forty dollars, ...	540 00
Sutton, . . .	Six hundred thirty-four dollars, . . .	634 00
Templeton, . . .	Five hundred sixty-nine dollars, . .	569 00
Upton, . . .	Four hundred fourteen dollars, . . .	414 00

WORCESTER COUNTY—CONTINUED.

Uxbridge, . . .	Seven hundred thirteen dollars, . . .	\$713 00
Warren, . . .	Four hundred thirty-nine dollars, . . .	439 00
Webster, . . .	Five hundred twenty-six dollars, . . .	526 00
West Boylston, .	Three hundred fifty-six dollars, . . .	356 00
West Brookfield,	Three hundred forty-two dollars, . . .	342 00
Westborough, .	Five hundred four dollars, ...	504 00
Westminster, .	Four hundred eighty-two dollars, . . .	482 00
Winchendon, .	Six hundred eight dollars, ...	608 00
Worcester, . .	Six thousand seven hundred twenty-five dollars, ...	6,725 00
		\$35,557 00

HAMPSHIRE COUNTY.

Amherst, . . .	Seven hundred forty-five dollars, . . .	\$745 00
Belchertown, .	Five hundred fifty-eight dollars, . . .	558 00
Chesterfield, .	Two hundred forty-nine dollars, . . .	249 00
Cummington, .	Two hundred fifty-two dollars, . . .	252 00
Easthampton, .	Two hundred seventy-four dollars, . .	274 00
Enfield, . . .	Two hundred eighty-four dollars, . . .	284 00
Goshen, . . .	One hundred nineteen dollars, . . .	119 00
Granby, . . .	Two hundred fifty-six dollars, . . .	256 00
Greenwich, . .	One hundred fifty-eight dollars, . . .	158 00
Hadley, . . .	Five hundred sixty-nine dollars, . . .	569 00
Hatfield, . . .	Four hundred twenty-eight dollars, .	428 00
Huntington, . .	One hundred sixty-two dollars, . . .	162 00
Middlefield, . .	One hundred ninety-four dollars, . . .	194 00
Northampton, .	One thousand five hundred seventy-seven dollars, ...	1,577 00

HAMPSHIRE COUNTY—CONTINUED.

Pelham, . . .	One hundred fifty-five dollars, . . .	\$155 00
Plainfield, . . .	One hundred eighty-seven dollars, . . .	187 00
Prescott, . . .	One hundred sixty-two dollars, . . .	162 00
South Hadley, . .	Four hundred fifty-four dollars, . . .	454 00
Southampton, . .	Two hundred fifty-six dollars, . . .	256 00
Ware, . . .	Seven hundred forty-nine dollars, . . .	749 00
Westhampton, . .	One hundred forty-eight dollars, . . .	148 00
Williamsburg, . .	Four hundred eighteen dollars, . . .	418 00
Worthington, . .	Two hundred eighty-four dollars, . . .	284 00
		\$8,638 00

HAMPDEN COUNTY.

Blandford, . . .	Three hundred forty-six dollars, . . .	\$346 00
Brimfield, . . .	Four hundred twenty-five dollars, . . .	425 00
Chester, . . .	Two hundred ninety-five dollars, . . .	295 00
Chicopee, . . .	Two thousand one hundred sixty-four dollars, . . .	2,164 00
Granville, . . .	Two hundred sixty-three dollars, . . .	263 00
Holland, . . .	Ninety-four dollars, ...	94 00
Holyoke, . . .	One thousand one hundred fifty-nine dollars, ...	1,159 00
Longmeadow, . .	Five hundred eight dollars, ...	508 00
Ludlow, . . .	Two hundred ninety-five dollars, . . .	295 00
Monson, . . .	Five hundred ninety-four dollars, . . .	594 00
Montgomery, . .	One hundred four dollars, ...	104 00
Palmer, . . .	Seven hundred ninety-nine dollars, . . .	799 00
Russell, . . .	One hundred fifteen dollars, ...	115 00
Southwick, . . .	Three hundred thirty-five dollars, . . .	335 00
Springfield, . .	Three thousand nine hundred ninety-two dollars, ...	3,992 00

HAMPDEN COUNTY—CONTINUED.

Tolland, . . .	One hundred thirty-three dollars, . . .	\$133 00
Wales, . . .	One hundred forty-four dollars, . . .	144 00
W. Springfield, .	One thousand eight dollars, ...	1,008 00
Westfield, . . .	One thousand eighteen dollars, . . .	1,018 00
Wilbraham, . . .	Five hundred seventy-six dollars, . .	576 00
		\$14,367 00

FRANKLIN COUNTY.

Ashfield, . . .	Three hundred forty-six dollars, . . .	\$346 00
Bernardston, . .	Two hundred forty-one dollars, . . .	241 00
Buckland, . . .	One hundred sixty-nine dollars, . . .	169 00
Charlemont, . .	Two hundred forty-five dollars, . . .	245 00
Colrain, . . .	Four hundred eighteen dollars, . . .	418 00
Conway, . . .	Four hundred forty-three dollars, . .	443 00
Deerfield, . . .	Six hundred forty-eight dollars, . . .	648 00
Erving, . . .	One hundred eight dollars, ...	108 00
Gill, . . .	One hundred eighty-four dollars, . .	184 00
Greenfield, . . .	Six hundred eighty-four dollars, . . .	684 00
Hawley, . . .	One hundred eighty-four dollars, . .	184 00
Heath, . . .	One hundred seventy-three dollars, .	173 00
Leverett, . . .	One hundred eighty-four dollars, . .	184 00
Leyden, . . .	One hundred thirty-three dollars, . .	133 00
Monroe, . . .	Forty-three dollars, ...	43 00
Montague, . . .	Three hundred two dollars, ...	302 00
New Salem, . .	Two hundred seventy-four dollars, . .	274 00
Northfield, . . .	Four hundred sixty-eight dollars, . .	468 00
Orange, . . .	Four hundred forty-three dollars, . .	443 00

FRANKLIN COUNTY—CONTINUED.

Rowe, ...	One hundred forty-four dollars, ...	\$144 00
Shelburne, . .	Three hundred two dollars, ...	302 00
Shutesbury, . .	One hundred sixty-nine dollars, ...	169 00
Sunderland, . .	Two hundred five dollars, ...	205 00
Warwick, . . .	Two hundred eighty-eight dollars, ...	288 00
Wendell, . . .	Two hundred fifty-two dollars, ...	252 00
Whately, . . .	Two hundred eighty-eight dollars, ...	288 00
		\$7,338 00

BERKSHIRE COUNTY.

Adams, ...	One thousand one hundred sixty-three dollars, ...	\$1,163 00
Alford, ...	One hundred forty dollars, ...	140 00
Becket, ...	Two hundred twenty-seven dollars, ...	227 00
Cheshire, . . .	Three hundred thirty-eight dollars, ...	338 00
Clarksburg, . .	Sixty-seven dollars, ...	67 00
Dalton, ...	Two hundred eighty-four dollars, ...	284 00
Egremont, . . .	Two hundred ninety-two dollars, ...	292 00
Florida, ...	One hundred one dollars, ...	101 00
Great Barrington,	Eight hundred twenty-eight dollars, ...	828 00
Hancock, . . .	Two hundred twenty-three dollars, ...	223 00
Hinsdale, . . .	Two hundred sixty-six dollars, ...	266 00
Lanesborough, .	Three hundred twenty-eight dollars, ...	328 00
Lee, ...	Six hundred fifty-five dollars, ...	655 00
Lenox, ...	Three hundred forty-two dollars, ...	342 00
Monterey, . . .	One hundred fifty-one dollars, ...	151 00
Mt. Washington,	Sixty-five dollars, ...	65 00
New Ashford, .	Sixty-one dollars, ...	61 00

BERKSHIRE COUNTY—CONTINUED.

New Marlboro', .	Three hundred forty-nine dollars, . .	\$349 00
Otis, ...	Two hundred twenty-nine dollars, . .	229 00
Peru, ...	One hundred thirty dollars, ...	130 00
Pittsfield, . . .	One thousand six hundred seventy dollars, ...	1,670 00
Richmond, . . .	Two hundred thirty-eight dollars, . .	238 00
Sandisfield, . .	Three hundred twenty dollars, . . .	320 00
Savoy, ...	One hundred thirty-seven dollars, . .	137 00
Sheffield, . . .	Seven hundred two dollars, ...	702 00
Stockbridge, . .	Four hundred sixty-four dollars, . .	464 00
Tyringham, . . .	One hundred sixty-two dollars, . . .	162 00
Washington, . .	One hundred sixty-two dollars, . . .	162 00
W. Stockbridge,	Three hundred seventy dollars, . . .	370 00
Williamstown, .	Six hundred nineteen dollars, . . .	619 00
Windsor, ...	Two hundred two dollars, ...	202 00
		\$11,285 00

NORFOLK COUNTY.

Bellingham, . . .	Three hundred thirty dollars, . . .	\$330 00
Braintree, . . .	Six hundred eighty-eight dollars, . .	688 00
Brookline, . . .	Two thousand nine hundred ninety-two dollars, ...	2,992 00
Canton, ...	Eight hundred thirty-nine dollars, . .	839 00
Cohasset, ...	Four hundred seventy-two dollars, . .	472 00
Dedham, ...	One thousand eight hundred four dollars, ...	1,804 00
Dorchester, . . .	Three thousand nine hundred forty-two dollars, ...	3,942 00
Dover, ...	One hundred ninety-one dollars, . . .	191 00
Foxborough, . . .	Four hundred twenty-five dollars, . .	425 00
Franklin, , . . .	Four hundred eighteen dollars, . . .	418 00

NORFOLK COUNTY—CONTINUED.

Medfield, . . .	Two hundred eighty-eight dollars, . .	\$288 00
Medway, . . .	Five hundred ninety-four dollars, . .	594 00
Milton, . . .	One thousand nineteen dollars, . . .	1,019 00
Needham, . .	Five hundred twenty-two dollars, . .	522 00
Quincy, . . .	One thousand three hundred forty-four dollars, ...	1,344 00
Randolph, . .	One thousand one hundred twenty-three dollars, ...	1,123 00
Roxbury, . . .	Seven thousand nine hundred thirty- four dollars, ...	7,934 00
Sharon, . . .	Three hundred forty-nine dollars, . .	349 00
Stoughton, . .	Seven hundred forty-nine dollars, . .	749 00
Walpole, . . .	Five hundred eight dollars, ...	508 00
Weymouth, . .	One thousand one hundred twenty- seven dollars, ...	1,127 00
Wrentham, . .	Seven hundred twenty dollars, . . .	720 00
		\$28,378 00

BRISTOL COUNTY.

Attleborough, .	Seven hundred thirty-four dollars, . .	\$734 00
Berkley, . . .	One hundred eighty dollars, ...	180 00
Dartmouth, . .	One thousand three hundred eighty-six dollars, ...	1,386 00
Dighton, . . .	Three hundred forty-six dollars, . . .	346 00
Easton, . . .	Four hundred eighty-two dollars, . .	482 00
Fairhaven, . .	One thousand nine hundred one dollars,	1,901 00
Fall River, . .	Three thousand seven hundred forty dollars, ...	3,740 00
Freetown, . .	Three hundred sixty-four dollars, . .	364 00
Mansfield, . .	Two hundred eighty-one dollars, . .	281 00
New Bedford, .	Eight thousand three hundred thirty- four dollars, ...	8,334 00
Norton, . . .	Four hundred sixty-one dollars, . . .	461 00
Pawtucket, . .	Six hundred forty-four dollars, . . .	644 00

BRISTOL COUNTY—CONTINUED.

Raynham, . . .	Three hundred thirty-one dollars, . . .	\$331 00
Rehoboth, . . .	Four hundred fifty-seven dollars, . . .	457 00
Seekonk, . . .	Four hundred fifty-seven dollars, . . .	457 00
Somerset, . . .	Two hundred ninety-five dollars, . . .	295 00
Swansey, . . .	Three hundred forty-two dollars, . . .	342 00
Taunton, . . .	Two thousand four hundred sixteen dollars, ...	2,416 00
Westport, . . .	Nine hundred dollars, ...	900 00
		\$24,051 00

PLYMOUTH COUNTY.

Abington, . . .	One thousand forty dollars, ...	\$1,040 00
Bridgewater, . .	Seven hundred seventy-four dollars, . .	774 00
Carver, ...	Two hundred thirty-four dollars, . . .	234 00
Duxbury, . . .	Six hundred ninety-five dollars, . . .	695 00
E. Bridgewater, .	Five hundred forty-seven dollars, . . .	547 00
Halifax, ...	One hundred seventy-three dollars, . .	173 00
Hanover, ...	Three hundred sixty dollars, ...	360 00
Hanson, ...	Two hundred fifty-two dollars, ...	252 00
Hingham, ...	One thousand thirty-three dollars, . . .	1,033 00
Hull, ...	Seventy-two dollars, ...	72 00
Kingston, ...	Five hundred twenty-nine dollars, . . .	529 00
Marshfield, . . .	Four hundred twenty-one dollars, . . .	421 00
Middleborough, .	One thousand eighty-three dollars, . . .	1,083 00
N. Bridgewater, .	Seven hundred forty-five dollars, . . .	745 00
Pembroke, ...	Two hundred ninety-five dollars, . . .	295 00
Plymouth, ...	One thousand five hundred seventy- three dollars, ...	1,573 00
Plympton, ...	Two hundred twenty-two dollars, . . .	222 00

PLYMOUTH COUNTY—CONTINUED.

Rochester, . .	Seven hundred ninety-six dollars, . .	\$796 00
Scituate, . . .	Four hundred fifty dollars, ...	450 00
South Scituate, .	Four hundred seventy-five dollars, . .	475 00
Wareham, . . .	Six hundred thirty dollars, ...	630 00
W. Bridgewater,	Three hundred thirty-five dollars, . .	335 00
		<u>\$12,734 00</u>

BARNSTABLE COUNTY.

Barnstable, . .	One thousand fifteen dollars, ...	\$1,015 00
Brewster, . . .	Two hundred thirty-eight dollars, . .	238 00
Chatham, . . .	Three hundred fifty-six dollars, . . .	356 00
Dennis, ...	Five hundred fifty-four dollars, . . .	554 00
Eastham, . . .	One hundred thirty-seven dollars, . .	137 00
Falmouth, . . .	Six hundred sixteen dollars, ...	616 00
Harwich, . . .	Four hundred seven dollars, ...	407 00
Orleans, ...	Two hundred forty-five dollars, . . .	245 00
Provincetown, .	Six hundred seventy dollars, ...	670 00
Sandwich, . . .	Eight hundred eighty-six dollars, . .	886 00
Truro, ...	Two hundred eighty-four dollars, . .	284 00
Wellfleet, . . .	Two hundred fifty-six dollars, . . .	256 00
Yarmouth, . . .	Four hundred ninety-seven dollars, . .	497 00
		<u>\$6,161 00</u>

DUKES COUNTY.

Chilmark, . . .	Two hundred eighty-four dollars, . .	\$284 00
Edgartown, . .	Four hundred forty-three dollars, . .	443 00
Tisbury, ...	Three hundred seventy-eight dollars, .	378 00
		<u>\$1,105 00</u>

NANTUCKET COUNTY.

Nantucket, . .	Two thousand seven hundred ninety-dollars, ...	\$2,790 00
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RECAPITULATION.

Suffolk County, .	One hundred and twenty-one thousand ten dollars, ...	\$121,010 00
Essex County, .	Thirty-five thousand four hundred twenty-five dollars, ...	35,425 00
Middlesex County,	Fifty-one thousand one hundred forty-nine dollars, ...	51,149 00
Worcester County,	Thirty-five thousand five hundred fifty-seven dollars, ...	35,557 00
Hampshire County,	Eight thousand six hundred thirty-eight dollars, ...	8,638 00
Hampden County,	Fourteen thousand three hundred sixty-seven dollars, ...	14,367 00
Franklin County,	Seven thousand three hundred thirty-eight dollars, ...	7,338 00
Berkshire County,	Eleven thousand two hundred eighty-five dollars, ...	11,285 00
Norfolk County, .	Twenty-eight thousand three hundred seventy-eight dollars, ...	28,378 00
Bristol County, .	Twenty-four thousand fifty-one dollars,	24,051 00
Plymouth County,	Twelve thousand seven hundred thirty-four dollars, ...	12,734 00
Barnstable County,	Six thousand one hundred sixty-one dollars, ...	6,161 00
Dukes County, .	One thousand one hundred five dollars,	1,105 00
Nantucket County,	Two thousand seven hundred ninety-dollars, ...	2,790 00
		\$359,988 00

SECTION 2. The treasurer of this Commonwealth shall forthwith send his warrant, with a copy of this act, directed to the selectmen or assessors of each city or town taxed as aforesaid, requiring them respectively, to assess the sum so charged, according to the provisions of the seventh chapter of the Revised Statutes; and to add the amount of such tax to the amount of town and county taxes to be assessed by them respectively on each city or town.

Treasurer shall
issue warrants to
selectmen, &c.

SECTION 3. The treasurer in his said warrant, shall require the said selectmen or assessors to pay or to issue

When payable.

Names of treasurers to be returned.

their several warrant or warrants, requiring the treasurers of their several cities or towns to pay to said treasurer of the Commonwealth, on or before the first day of December, in the year one thousand eight hundred and fifty-eight, the sums set against said cities or towns in the schedule afore-said; and the selectmen or assessors, respectively, shall return a certificate of the names of such treasurers, with the sum which each may be required to collect, to the said treasurer of the Commonwealth, at some time before the first day of October next.

One per cent. per month additional for delinquency.

SECTION 4. If the amount due from any city or town as provided in this act, shall not have been paid to the treasurer of the Commonwealth within the time specified, then the said treasurer shall notify the treasurer of said delinquent city or town, who shall pay into the treasury of the Commonwealth, in addition to the tax, such further sum as would be equal to one per cent. per month during such delinquency, dating on and after the first day of December next; and if the same shall remain unpaid after the first day of January next, an information may be filed by the treasurer of the Commonwealth in the supreme judicial court or before any justice thereof, against such delinquent city or town, and upon notice to such city or town, and a summary hearing thereon, a warrant of distress may issue against such city or town, to enforce the payment of said taxes, under such penalties as the said courts, or the justice thereof before whom the hearing is had, shall order.

SECTION 5. This act shall take effect from and after its passage.

Approved March 27, 1858.

Chap. 150

AN ACT TO AMEND AN ACT CONCERNING INSURANCE COMPANIES.

Be it enacted, &c., as follows :

Act of 1856 amended.

SECTION 1. The thirty-ninth section of the two hundred and fifty-second chapter of the acts of the year eighteen hundred and fifty-six, is hereby so amended that any mutual fire insurance company which shall hereafter be incorporated by the legislature of this Commonwealth, may issue policies of insurance when the sum of two hundred and fifty thousand dollars shall have been subscribed to be insured, according to the provisions of said section.

SECTION 2. This act shall take effect from and after its passage.

Approved March 27, 1858.

Chap. 151

AN ACT RELATING TO PUBLIC DIVERSIONS.

Be it enacted, &c., as follows :

Persons prohibited from being present at any

SECTION 1. No person shall be present at any game, sport, play or public diversion, except concerts of sacred music,

upon the evening following the Lord's day; nor upon the evening next preceding the Lord's day, unless such game, sport, play or public diversion, shall have been duly licensed by the persons or board authorized by law to grant licenses in such cases; and every person offending against the provisions of this act shall be punished by a fine not exceeding five dollars for each offence.

diversion on Sunday evening; and on Saturday evening unless licensed.

Penalty.

SECTION 2. The fifth section of the fiftieth chapter of the Revised Statutes is hereby repealed. *Approved March 27, 1858.*

Repeal.

AN ACT IN ADDITION TO AN ACT CONCERNING PUBLIC AMUSEMENTS. *Chap. 152*
Be it enacted, &c., as follows:

SECTION 1. Any person who shall offer to view, or shall set up, set on foot, maintain or carry on any theatrical exhibition, public show, concert, or dance-hall exhibition of any description, at which "Lager Bier" or other intoxicating liquors are sold or exposed for sale, with the consent of those who get up, set on foot or otherwise promote such exhibitions or shows, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the house of correction not more than two years, unless such exhibition or show shall have been first duly licensed in the mode now provided by law for the licensing of all theatrical exhibitions, public shows, public amusements and exhibitions of every description, to which admission is obtained upon payment of money.

Penalty for maintaining theatrical exhibitions, &c., at which lager bier, &c., is sold, without license.

SECTION 2. Nothing in this act shall be deemed to authorize the mayor and aldermen of any city, or the selectmen of any town, to grant any license for the sale at any exhibition or show, of any liquors, the sale of which is now prohibited by law.

Sale of liquors now prohibited, not authorized.

Approved March 27, 1858.

AN ACT TO AUTHORIZE THE PINE STREET CONGREGATIONAL SOCIETY TO SELL CERTAIN REAL ESTATE. *Chap. 153*

Be it enacted, &c., as follows:

SECTION 1. The Pine Street Congregational Society, of Boston, is hereby authorized to sell and convey by deed, free from and discharged of all and every trust, its land and meeting-house, situated at the corner of Pine and Washington Streets, in said Boston, and to use the proceeds thereof, after paying the debts of said society, to purchase a lot of land in any part of the city of Boston, and to build thereon another meeting-house: *provided, however,* that this act shall, within one year from its passage, be accepted, and the conveyance aforesaid authorized by said society, at a meeting legally notified and called for that purpose.

May sell real estate, &c.

Proceeds, how to be used.

Proviso.

SECTION 2. This act shall take effect from and after its passage.

Approved March 27, 1858.

Chap. 154

AN ACT IN RELATION TO THE CRIME OF MURDER.

Be it enacted, &c., as follows:

Murder in first degree.

SECTION 1. Murder, committed with deliberately premeditated malice aforethought, or in the commission of an attempt to commit any crime punishable with imprisonment for life, or committed with extreme atrocity or cruelty, is murder in the first degree.

Second degree.

SECTION 2. Murder not appearing to be in the first degree is that in the second.

Degree to be found by jury.

SECTION 3. The degree of murder is to be found by the jury.

Punishment in first degree.

SECTION 4. Whoever is guilty of murder in the first degree shall suffer the punishment of death for the same, subject, however, to such conditions, regarding the time and manner of executing sentence, and the custody or imprisonment of the convict prior thereto, as shall have been otherwise provided by law.

Punishment in second degree.

SECTION 5. Whoever is guilty of murder in the second degree, shall be punished by imprisonment in the state prison for life.

How to be construed.

SECTION 6. Nothing herein shall be construed to require any modification of the existing forms of indictment.

SECTION 7. This act shall take effect from and after its passage.

Approved March 27, 1858.

Chap. 155

AN ACT TO AMEND THE TWO HUNDRED AND EIGHTY-NINTH CHAPTER OF THE ACTS OF THE YEAR EIGHTEEN HUNDRED AND FIFTY-TWO, CONCERNING RETURNS BY JUSTICES OF THE PEACE.

Be it enacted, &c., as follows:

Act of 1852 amended.

SECTION 1. The two hundred and eighty-ninth chapter of the acts of the year eighteen hundred and fifty-two is hereby so amended, that those justices of the peace and police justices before whom criminal causes shall have been actually commenced or examined during the year ending on each thirty-first day of December, and no others, shall be required to make returns as therein specified. And the secretary of the Commonwealth shall not furnish blank forms for returns to any justices of the peace, except such as are authorized to hear criminal causes.

Acting justices only required to make returns.

SECTION 2. The returns received from the officers named in chapter two hundred and sixteen of the acts of the year eighteen hundred and fifty-one, and chapter two hundred and eighty-nine of the acts of the year eighteen hundred

Secretary to transmit returns to auditor, and auditor to report to legislature.

and fifty-two, shall be transmitted by the secretary as soon as received, to the auditor, who shall examine and report upon the same to the legislature.

SECTION 3. All acts or parts of acts, requiring said returns or an abstract thereof to be printed, are hereby repealed. Repeal.
Approved March 27, 1858.

AN ACT TO DEFINE THE SALARY OF THE ADJUTANT-GENERAL.

Chap. 156

Be it enacted, &c., as follows :

SECTION 1. The salary of the adjutant and quartermaster-general is hereby established at one thousand eight hundred dollars per annum, to be computed at that rate from the first day of January, in the year one thousand eight hundred and fifty-eight; said salary to be in full compensation for all services whatsoever rendered to the Commonwealth by said officer, including those as keeper of the public magazines, munitions of war, entrenching tools, and all other implements of war belonging to the Commonwealth. Salary of adjutant-general established.

SECTION 2. This act shall take effect from and after its passage.
Approved March 27, 1858.

AN ACT CEDING JURISDICTION OVER CERTAIN LANDS IN BOSTON TO THE UNITED STATES.

Chap. 157

Be it enacted, &c., as follows :

SECTION 1. Jurisdiction is hereby granted and ceded to the United States of America over a certain lot of land situate in the city of Boston, in this Commonwealth, and known, with the buildings thereon, as "The Masonic Temple," together with such tract or tracts adjacent thereto, and not exceeding in all, in addition to said first described lot, twenty-five thousand square feet, as may now, or hereafter be purchased by the United States, for the purpose of establishing and maintaining a court house thereon. And consent is hereby given to such purchase, the evidence thereof being duly recorded in the registry of deeds for the county of Suffolk: *provided, always*, that this Commonwealth shall retain and does retain concurrent jurisdiction with the United States, in and over all the lands aforesaid, so far that all civil processes, and all criminal processes, issuing under the authority of this Commonwealth, may be executed on said lands, and in any buildings thereon, or to be erected thereon, in the same way and manner as if jurisdiction had not been granted as aforesaid; and *provided*, that the exclusive jurisdiction shall revert to, and revert in, the Commonwealth of Massachusetts, whenever the said land shall cease to be used for the sole purpose herein before Jurisdiction ceded.

Proviso.

Provided also.

declared; and *provided, also*, that the jurisdiction of the United States shall not include any part of any highway on which the said land may be bounded.

Act to be void unless, &c.

SECTION 2. This act shall be void unless a suitable plan of the premises, or such portion or portions thereof as may be purchased by the United States, shall be made and filed, by the United States, in the office of the secretary of this Commonwealth, within one year from the purchase of the land by the United States.

SECTION 3. This act shall take effect from and after the purchase of such lands, or of any portion or portions thereof, by the United States.

Approved March 27, 1858.

Chap. 158

AN ACT TO REGULATE CERTAIN MATTERS OF FINANCE.

Be it enacted, &c., as follows:

Act of 1849 repealed in part.

SECTION 1. So much of the fourth section of chapter fifty-six, of the acts of the year one thousand eight hundred and forty-nine, as provides that the auditor shall submit to the legislature an estimate of expenses for the current year, in his annual report, is hereby repealed. It shall be the duty of every public officer or board having charge of any department of the public service requiring an expenditure of money from the state treasury, other than the payment of salaries, to submit in writing, to the speaker of the house of representatives, on or before the fifteenth day of January, in each year, a detailed estimate of the sums, which in the judgment of such officer or board will be necessary for the maintenance of the departments severally under their charge, for the current year.

Annual report of auditor to contain a summary statement of receipts and payments each year, from the treasury, &c.

SECTION 2. The annual report of the auditor shall contain a summary statement of the receipts into and payments from, the treasury of the Commonwealth in each year: said report shall also contain a detailed and particular statement of the receipts and expenditures belonging to each year; and for the purposes of this statement the account of receipts shall include all the revenue properly accruing or provided by law during the year, whether any part thereof be unpaid at the end of the year or not: *provided*, that the amount of revenue thus unpaid shall be distinguished in the account. In like manner, the account of expenditures in the detailed statement, shall include, first, the total expense incurred during the year, for the support of all permanent departments, services and institutions; and second, all exceptional and special charges, incurred for objects ordered within the year, the account being constructed in such manner as to show the total expenditure actually incurred within the year,

Proviso.

whether the same has been paid during the year, or whether the whole or a part thereof, remain unpaid at the close of the year: *provided*, that the amounts paid and unpaid, shall be properly distinguished. The variations between said summary account and said detailed account, shall be indicated and explained by proper notes and references.

SECTION 3. The annual report of the auditor, made next after the passage of this act, shall contain a recapitulation of the receipts and expenditures of the year one thousand eight hundred and fifty-seven, as well as of the year one thousand eight hundred and fifty-eight, constructed upon the principles laid down in the preceding section.

Auditor's report for 1858 to contain a recapitulation of receipts, &c., of 1857.

SECTION 4. The auditor's report, in each year, shall show the aggregate amount of funded debt at the beginning and end of the year respectively, the balance of increase or decrease, and a statement of the cause of such balance; and in like manner, shall show the aggregate amount of the temporary loan, at the beginning and end of the year, the balance of increase or decrease, and a statement of the cause of such balance. The report shall likewise state whether the ordinary expenses of the year have exceeded the income, or the contrary, and show the amount of the balance, with an explanation of the means by which any deficit may have been met, or of the purposes to which any surplus may have been applied.

Auditor's report in each year to show aggregate amount of funded debt, &c.

SECTION 5. It shall be the duty of the auditor to include in his report, the items of all accounts of expenditure, so far as they may be useful or interesting to the people of the Commonwealth; and in particular, so far as may be practicable, the various heads of expenditure shall be separated, so as to show the different officers or boards, under whose directions the several portions of the expenditure have been incurred; all salaries and other general charges shall likewise be separated, so as to show the different classes of officers who received the several portions of the expenditure; and no expenditure exceeding five hundred dollars, shall be included under any indefinite head, if it be composed of separate items.

Auditor to include in his report items of all accounts of expenditures, &c.

SECTION 6. The auditor's report shall annually, contain a particular statement of the manner in which the moiety of the income of the school fund, applicable to educational purposes, has been disbursed.

Auditor's report to contain manner of disbursement of school fund.

SECTION 7. The auditor's report shall hereafter state the amount paid to each county, in reimbursement of the costs of criminal prosecutions, in such manner as to show the whole amount charged, the amount credited for fines and

Auditor's report to state the amount paid to each county for costs of criminal prosecutions.

forfeitures, and the balance ; also, the amount of commissions allowed on such payments, to the treasurer of each county.

Auditor's report to describe new investments of state funds.

SECTION 8. The auditor's report shall hereafter describe the new investments of any portion of the funds belonging to the Commonwealth, which may have been made during the year.

Manner of estimating value of Western Railroad stock, by treasurer and auditor.

SECTION 9. In estimating the value of the shares of Western Railroad stock belonging to the Commonwealth, the treasurer and auditor shall not assign a separate numerical value to the rights in the loan sinking fund ; and all railroad shares or other securities, shall be reckoned at their market value at the time of making the report.

Cash on hand at beginning of each year to be reckoned, &c.

SECTION 10. The cash on hand on account of ordinary revenue, at the beginning of each year, shall be reckoned a part of the ordinary revenue of that year.

Expenditures limited to \$100 under resolve of 1857.

SECTION 11. No order of either branch of the legislature, and no concurrent order of the two branches, shall be valid to authorize the expenditure of more than one hundred dollars, by virtue of the provisions of chapter nineteen of the resolves of the year one thousand eight hundred and fifty-seven, unless a specific appropriation of a larger sum has been previously made.

No legislative committee to incur any expenditure after close of regular session, unless, &c.

SECTION 12. No committee of the legislature shall incur any expenditure or liability in behalf of the Commonwealth, after the close of the regular session, unless there be a subsisting appropriation therefor, previously made by law ; and the amount of the expenditure or liability shall be limited by the appropriation.

Chap. 11 of acts of present year to apply.

SECTION 13. The second, third, fourth, fifth, sixth, seventh and eighth sections of chapter eleven of the acts of the present year shall be general in their application to all appropriations, as well as to those contained in said chapter eleven : *provided*, that the seventh section aforesaid shall not be construed to prevent any public officer or board from continuing the several departments of service under their charge, during the month of January in any year, at the same rate of expenditure as may have been authorized by the appropriations for the preceding year, until the pleasure of the legislature shall be made known.

Proviso.

No public officer to incur any new expense unless, &c.

SECTION 14. No public officer or board shall incur any new or unusual expense, make any permanent contract, increase any salary, or employ any new clerk, assistant or other subordinate, at any time, unless an appropriation sufficient to cover the necessary expense thereof, shall have been previously made by the legislature.

SECTION 15. The expression in any act or resolve containing appropriations, that such appropriations are made for a certain year, shall not be construed to prevent the application, in the following year, of any unexpended balance of such appropriations, to the same objects for which they were originally designated.

Acts, &c., making appropriations, how construed.

SECTION 16. The treasurer is hereby authorized and directed from time to time, whenever it can advantageously be done, to dispose of the securities belonging to the Western Railroad stock sinking fund, amounting to two hundred and sixteen thousand eight hundred and sixty-six dollars and forty-seven cents, on which the money was advanced by a temporary loan; and to repay the said temporary loan with the avails of such sales as he may make.

Treasurer to dispose of Western Railroad stock sinking fund.

SECTION 17. The current interest on all temporary loans to the Commonwealth from banks, corporations or individuals, shall be paid semi-annually, on the first days of April and October in each year.

Interest on temporary loans to be paid semi-annually.

SECTION 18. All acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

Repeal.

SECTION 19. This act shall take effect from and after its passage.

Approved March 27, 1858.

AN ACT FOR THE APPOINTMENT OF WATCHMEN AND FIREMAN TO THE STATE HOUSE. *Chap. 159*

Be it enacted, &c., as follows :

SECTION 1. The sergeant-at-arms shall annually appoint, subject to the approval of the secretary and treasurer of the Commonwealth, four good and discreet persons as watchmen of the state house, whom he may at any time remove, and for whose fidelity and good conduct, in said capacity, he shall be responsible. Said watchmen shall remain in the state house every night from nine o'clock in the evening, until sunrise the next morning, and maintain proper watch and guard for the security thereof; and two of said watchmen shall for the same purpose remain on duty during all other hours of the day when the outside doors are open.

Appointment and duties of watchmen.

SECTION 2. Said watchmen shall visit, each night, all the rooms in the state house in which fires have been kindled during the preceding day, and attend to their safety; and shall open the outside doors of the lower floor, and the gates, every morning, and close the same every evening, except Sabbath, and public holidays; and the keys of said doors and gates, and of the several apartments, shall be so deposited as that said watchmen may have ready access to them. Said watchmen shall also keep the lower floor and

entries of the state house clean and in good order; light, clean and keep in order the outside lamps; kindle and keep up suitable fires in all the offices (except that of the secretary of the Commonwealth) within the state house, and keep said offices at all times, clean and in good order; and shall perform all such other duties with regard to said offices as have been heretofore performed by the watchmen and messengers of the general court.

SECTION 3. Said watchmen shall take all proper care to prevent any trespass or injury being committed within or upon any part of the state house, or any of the appurtenances thereof belonging to the Commonwealth; and if any such trespass or injury occur, and the offender be known to either of the said watchmen, they shall forthwith give notice thereof to the attorney-general, in order that such offender may be prosecuted therefor.

Watchmen to perform duties of messengers.

SECTION 4. The said watchmen shall also perform the duties of messengers to the general court during the sessions of the legislature; and in full compensation for all services required of them by the sergeant-at-arms, under this act as watchmen throughout the year, and messengers during the annual session of the legislature, they shall be paid from the treasury of the Commonwealth, in quarterly instalments, a salary of seven hundred and fifty dollars each.

Compensation.

Appointment of fireman.

SECTION 5. The sergeant-at-arms shall further have authority to appoint one person as a fireman, who shall make and attend the fires in the basement of the state house, and shall perform such other duties as may be required by the sergeant-at-arms; and in full compensation for all said services shall receive a salary of six hundred dollars, to be paid quarterly from the treasury of the Commonwealth.

Compensation.

Act of '53 and resolve of '55 repealed

SECTION 6. Chapter one hundred and nineteen of the acts of the year one thousand eight hundred and fifty-three, and chapter eighty-one of the resolves of the year one thousand eight hundred and fifty-five, are hereby repealed.

Salaries to be computed from January 1, 1858.

SECTION 7. The salaries herein mentioned shall be computed from the first day of January, in the year one thousand eight hundred and fifty-eight.

SECTION 8. This act shall take effect from and after its passage.

Approved March 27, 1858.

Chap. 160

AN ACT AMENDING "AN ACT TO ESTABLISH THE CITY OF NEWBURY-PORT."

Be it enacted, &c., as follows:

Act of 1851 amended.

SECTION 1. The act approved May twenty-fourth, eighteen hundred and fifty-one, entitled "An Act to establish the

City of Newburyport," is hereby amended and altered, as follows, to wit: one overseer of the poor, being selected from each ward, shall, at the next municipal election, after the acceptance of this act, as hereinafter provided, be elected by the qualified voters of the city at large, voting in their respective wards, who, together with the mayor *ex officio*, as chairman of the board, shall constitute the board of overseers of the poor. At the first meeting of the board thus elected, they shall divide themselves, by lot, into two classes of three each; those of the first class to serve for one year; and those of the second class to serve for two years; and thereafter annually, at the municipal election of said city, there shall be elected, in the manner above provided, three overseers of the poor to serve for two years; but no two of the members of said board shall be residents, at the time of their election, of the same ward; vacancies in the board to be filled by the city council in convention.

Overseers of the poor to be elected by the voters of the city at large, who, with mayor, to constitute the board.

Division of board into two classes; first class to serve one year, second two years, &c.

SECTION 2. The school committee to be elected at the municipal election next after the acceptance of this act, as hereinafter provided, shall, at the meeting for the organization of said school committee, be divided by lot into two classes of six each, one from each ward; those of the first class to serve for one year, and those of the second class to serve for two years; and thereafter, annually, at the municipal election of said city, there shall be elected in each ward, one resident of said ward, who shall be a member of the school committee of said city for the term of two years.

Division of school committee into two classes; first class to serve one year, second two years, &c.

SECTION 3. This act shall be submitted to the inhabitants of Newburyport, for their acceptance or rejection, at legal meetings to be called in the several wards of said city, within ninety days from the passage of this act, and shall take effect from and after its acceptance, by a majority of the votes cast at such meetings.

Act not to take effect until accepted.

Approved March 27, 1858.

AN ACT IN ADDITION TO AN ACT RELATING TO PERSONS COMMITTED TO THE STATE LUNATIC HOSPITALS, NOT HAVING A KNOWN SETTLEMENT IN THIS COMMONWEALTH.

Chap. 161

Be it enacted, §c., as follows:

The act approved by the governor on the twenty-third day of May, in the year one thousand eight hundred and fifty-seven, entitled "An Act relating to Persons committed to the State Lunatic Hospitals, not having a known settlement in this Commonwealth," shall not apply to any case where support has been furnished to any person at either of the state lunatic hospitals prior to the passage of said act.

Act of 1857 defined.

Approved March 27, 1858.

Chap. 162

AN ACT RELATING TO THE GOVERNMENT OF PRISONS.

Be it enacted, &c., as follows :

Removal of officers of state prison using intoxicating liquors.

SECTION 1. It shall be the duty of the inspectors of the state prison, forthwith to remove any officer, who holds his place at the pleasure of the inspectors and warden, who shall be known to use, as a beverage, intoxicating liquors.

Removal of officers of jails and houses of correction using intoxicating liquors.

SECTION 2. It shall be the duty of the overseers of the houses of correction, and the county commissioners in the several counties, forthwith to remove any officer, appointed by them to any position of trust or authority in any house of correction, who shall be known to use intoxicating liquors as a beverage ; and it shall also be the duty of the sheriffs of the several counties to remove any officer, appointed by them to any position of trust or authority, in the jails and houses of correction, who shall use intoxicating liquors as aforesaid.

SECTION 3. This act shall take effect from and after its passage.

*Approved March 27, 1858.**Chap. 163*

AN ACT CONCERNING THE MARLBOROUGH BRANCH RAILROAD.

Be it enacted, &c., as follows :

In case trustees under mortgage by company to Francis Brigham *et al*, sell franchise, &c., purchasers may associate, &c., for managing road.

SECTION 1. In case at any time, the then trustees under a mortgage made by the Marlborough Branch Railroad Company, to Francis Brigham, Francis D. Brigham and Obadiah W. Albee, by deed dated the first day of February, in the year of our Lord one thousand eight hundred and fifty-five, confirmed by act of the general court, approved on the sixteenth day of February, eighteen hundred and fifty-five, being chapter nineteen of the acts of that year, shall sell the franchise and other property mortgaged, under and in pursuance of the terms of said deed of mortgage, the purchaser or purchasers, at such sale, may associate themselves together, under any name by them assumed, for the purpose of managing said railroad ; and they shall, together with their successors and assigns, be and remain a body corporate, under the name assumed by them ; but before they shall commence business, they shall make a certificate setting forth their corporate name, the amount of capital actually paid in, and the par value of the shares ; which certificate shall be signed and sworn to by the president, treasurer and a majority of the directors of said company, published in two daily Boston papers, and some paper published in the county of Middlesex, on three successive weeks at least, in each, and filed with the secretary of the Commonwealth ; and when so organized, they shall become a corporation, with like powers and privileges, and

Certificate of name assumed, amount of capital paid in, &c., to be published and filed with secretary of Commonwealth.

subject to the duties and restrictions set forth in the act incorporating the Marlborough Branch Railroad Company: *provided*, that no shares in the capital stock of said company, shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares first issued. Proviso.

SECTION 2. Any such sale shall not in any way affect or impair any contract now subsisting between the Marlborough Branch Railroad Company and any other company, in relation to the use and running of said road, but the purchaser or purchasers, at any such sale, and the corporation which may be thereupon formed, in pursuance with the provisions of this act, shall have all the rights and be subject to all the duties and liabilities of the said Marlborough Branch Railroad Company, under any such contract. Sale not to affect any contract between Marlboro' Branch and any other railroad company.

SECTION 3. The Marlborough Branch Railroad Company may issue bonds for the purpose of taking up and paying the bonds, and other indebtedness of said company secured by the mortgage herein before referred to; and the trustees under said mortgage shall, in case any such bonds are issued, hold the property mortgaged, as security for the payment of any such bonds so issued by said company, in the same manner and upon the same terms and conditions in all respects, as the same is now held by them as security for the indebtedness of said company intended to be secured thereby; and said company may make such further conveyance as security, or in confirmation thereof, as they may deem necessary: *provided, however*, that said mortgaged property shall be held and applied, in the first instance, to the payment in full, principal and interest, of all indebtedness now secured thereby; and nothing herein contained shall prevent said trustees from taking any and all steps, and exercising any and all rights given them under said mortgage, for the security and payment of the indebtedness now secured thereby. Company may issue bonds for payment of its debts.

Trustees to hold property mortgaged as security for payment of bonds, &c.

Proviso.

Trustees to take necessary steps to secure payment, &c.

Approved March 27, 1858.

AN ACT CONCERNING THE SURVEY OF LUMBER, ORNAMENTAL WOOD AND SHIP TIMBER.

Chap. 164

Be it enacted, &c., as follows:

SECTION 1. There shall be elected at the annual meeting of each town, and appointed by each city in the Commonwealth, one or more well qualified and skilful surveyors of lumber, who shall hold office for one year and until their successors be chosen and appointed, unless sooner removed: *provided*, that the several cities may, from time to time, establish any ordinances, with suitable penalties, respecting Election by each town and appointment by each city of surveyors of lumber.

Proviso.

the appointment of surveyors for said cities, as they may deem expedient.

Duties. SECTION 2. The said surveyors shall survey oak and other hard wood commonly used in ship building, mahogany, ash and other ornamental wood, and all other lumber, hereafter brought for sale into this Commonwealth, according to the provisions of this act; and shall also survey all lumber manufactured in this state, when requested so to do by either the purchaser or seller: *provided*, that no surveyor shall survey any lumber in which he has a pecuniary interest.

Proviso.

Division of pine boards and planks into six sorts.

SECTION 3. In the survey of pine boards and planks, except southern pine, there shall be six sorts. The first sort shall be denominated number one, and shall include boards, not less than one inch thick, square edged, free from rot, shakes, and nearly free from knots and sap, except such boards and planks as are not less than fifteen inches wide, and not more than one-eighth waste, which shall be received as number one. The second sort shall be denominated number two, and shall include boards not less than one inch thick, and of which not less than seven-eighths is suitable for planing and first class finish: *provided*, that such boards as are clear but deficient in thickness as aforesaid, shall be received as number two. The third sort shall be denominated number three, and shall include boards not less than seven-eighths of an inch thick, and of which not less than three-fourths is suitable for planing and second class finish. The fourth sort shall be denominated number four, and shall include boards not less than seven-eighths of an inch thick, nearly free from rot and nearly square edged, free from loose and large branch knots, and suitable for covering buildings; all Norway pine boards and planks shall be included in the fourth, fifth and sixth sorts. The fifth sort shall be denominated number five, and shall include all boards and planks of every description not being within the other four denominations, except when one-third is worthless, which boards and planks shall be denominated refuse.

Proviso.

Division of pine joists, &c., into three sorts.

SECTION 4. In the survey of pine joists and dimension timber there shall be three sorts. The first sort shall be denominated number one, and shall include all joists and dimension timber that are sound and nearly square edged. The second sort shall be denominated number two, and shall include all other descriptions, except when one-third is worthless, which joists and dimension timber shall be denominated refuse.

Division of spruce, hemlock, &c., into three sorts.

SECTION 5. In the survey of spruce, hemlock, juniper and southern pine boards, planks, sawed timber and joists,

there shall be three sorts. The first sort shall be denominated number one, and shall include all boards, planks, sawed timber and joists that are sound and nearly square edged. The second sort shall be denominated number two, and shall include all other descriptions, except when one-third is worthless, which boards, planks, sawed timber and joists shall be denominated refuse.

SECTION 6. In the survey of ash, maple and other hard wood and ornamental boards, planks and joists, there shall be three sorts. The first sort shall be denominated number one, and shall include all boards, planks and joists that are free from rot, shakes and bad knots. The second sort shall be denominated number two, and shall include all other descriptions, except when one-third is worthless, which boards, planks and joists shall be denominated refuse.

Division of ash, maple, &c., into three sorts.

SECTION 7. In the survey of hewn timber, except mahogany and cedar, there shall be three sorts. The first sort shall be denominated number one, and shall include all timber that is sound and nearly square edged. The second sort shall be denominated number two, and shall include timber of all other descriptions except when one-third is worthless, which timber shall be denominated refuse.

Division of hewn timber, &c., into three sorts.

SECTION 8. In the survey of oak, juniper and spruce knees, there shall be two sorts. The first sort shall be denominated number one, and shall include all sound knees of the following dimensions: arm or root two feet long, body of knee four feet long, working thickness four inches; arm or root two feet and six inches long, body of knee four feet long, working thickness five and five and one-half inches; arm or root three feet long, body of knee four feet and six inches long, working thickness six and six and one-half inches; arm or root three feet and six inches long, body of knee four feet and six inches long, working thickness seven and seven and one-half inches; arm or root three feet and nine inches long, body of knee five feet long, working thickness eight and eight and one-half inches; arm or root four feet long, body of knee five feet and six inches long, working thickness nine and nine and one-half inches; arm or root four feet and six inches long, body of knee six feet long, working thickness ten and ten and one-half inches. The second sort shall be denominated refuse, and shall include all other descriptions of less dimensions than those specified in the first denomination; all knees shall have the working thickness marked thereon, respectively, and on the first sort, the number, "one," shall be marked thereon.

Division of oak, juniper, &c., into two sorts.

Mahogany and cedar, one sort.

SECTION 9. In the survey of mahogany and cedar, there shall be but one sort, and it shall be the duty of the surveyors, who are especially appointed to survey mahogany and cedar, to number all the mahogany and cedar logs or sticks contained in each lot or cargo in regular numerical order, and to mark the number of each log or stick, upon the same, in legible characters. And the said surveyor shall, to the best of his ability, ascertain the whole number of feet, board measure, in each and every log or stick, and what quantity thereof is merchantable, and what is refuse. And said surveyor shall thereupon issue a certificate or survey bill of said survey, in which shall be stated the number of each log or stick, and the whole number of feet contained in the same, and specifying the number of feet which is merchantable and refuse, respectively.

Hewn timber, &c., used for ship building, to be surveyed.

SECTION 10. All hewn timber, and all round timber used for masts and ship building, shall be surveyed and sold as ton timber, at the rate of forty cubic feet to the ton; oak and other timber and planks commonly used in ship building, shall have the true contents marked thereon in cubic feet or board measure, and in the first and second sorts, the numbers "one" and "two" shall be marked thereon respectively. In the survey of white and Norway pine boards, planks, joists, sawed timber and dimensions, the contents of the same shall be truly marked thereon in legible numbers, and on the second, third, fourth and fifth sort of white and Norway pine boards, planks and dimensions, the numbers shall be marked thereon respectively. All boards, planks, joists, sawed timber and dimension lumber shall be received and sold according to the contents thereof, as fixed and marked under the aforesaid regulations. In the admeasurement of round timber, one-fourth of the girth shall be taken for the side of the square.

In survey of Norway pine boards, &c., contents to be marked.

All boards, &c., to be sold according to contents.

Fees for surveying and marking.

SECTION 11. The fees for surveying and marking, according to the foregoing provisions of this act, are to be paid by the purchaser, and shall be as follows: for white and Norway pine, spruce, hemlock, juniper and white wood boards, planks, joists, sawed timber and dimension, twenty-four cents for every thousand feet board measure; for southern pine flooring boards, thirty-four cents for every thousand feet board measure; for all kinds of pine, spruce, hemlock and juniper timber, twelve cents for every ton; for oak and other hard wood, twenty-four cents for every ton; for knees commonly used in ship building, three cents for each knee; for ash, maple and other hard wood and ornamental boards, planks and joists, forty cents for every thousand feet board

measure; for Cuba, Saint Domingo and other branch or hard mahogany, one dollar for every thousand feet board measure; and for mahogany from the bay of Honduras, and for cedar, seventy-five cents for every thousand feet board measure.

SECTION 12. If any surveyor shall be guilty of, or connive at, any fraud or deceit, in the surveying, numbering or marking the contents of any kind of wood or lumber, required by this act to be surveyed; or if any surveyor when requested by the owner of any lumber, to survey the same, shall, without good reason, refuse to perform the duty, he shall forfeit for each offence, a sum not less than ten, nor more than fifty dollars, to be recovered by indictment or complaint to the use of the town or city in which the offence shall have been committed.

Penalty for fraud,
&c.

SECTION 13. If any person shall sell or purchase any lumber or wood herein named, brought into this Commonwealth for sale after the passage of this act, which has not been surveyed, numbered and marked, according to the provisions thereof, he shall forfeit a sum equal to double of the amount of fees for surveying the same; to be recovered by indictment or complaint, to the use of the town or city in which the offence shall have been committed.

Penalty for selling or purchasing without survey.

SECTION 14. If any person, not authorized by the provisions of this act, shall presume to perform any of the duties of surveyor of lumber, he shall forfeit a sum not less than fifty nor more than two hundred dollars, to be recovered by indictment or complaint, to the use of the town or city in which the offence shall have been committed.

Penalty for acting as surveyor without authority.

SECTION 15. So much of the twenty-eighth chapter of the Revised Statutes as relates to the survey of lumber, timber, shingles and clapboards, being all the sections from one hundred and forty-one to one hundred and fifty-nine, inclusive, and all acts and parts of acts inconsistent with the provisions of this act, are hereby repealed: *provided*, that this act shall not be construed to remove or discharge from office the surveyors who have been appointed or elected for the present year.

Repeal.

Proviso.

Approved March 27, 1858.

AN ACT TO AMEND THE ACT TO INCREASE THE AMOUNT OF SPECIE IN THE COMMONWEALTH. *Chap. 165*

Be it enacted, &c., as follows:

The banks in South Boston, instead of the weekly returns required by the three hundred and seventh chapter of the acts of eighteen hundred and fifty-four, shall make monthly returns, as required of the banks doing business in Massa-

Banks in South Boston to make monthly returns.

chusetts, and out of Boston, by the three hundred and seventh chapter of the acts of eighteen hundred and fifty-four; and the said banks in South Boston shall return the monthly average amount of balances in other banks not bearing interest, which may be applied to the redemption of their bills, and the same shall be considered and deemed as equivalent to specie for the purposes of the act passed the present year, "to increase the amount of specie in the Commonwealth."

Approved March 27, 1858.

Chap. 166

AN ACT CONCERNING THE MILITIA.

Be it enacted, &c., as follows :

Attendance of militia at encampment, &c.
A regimental staff officer to ascertain and certify upon returns of duty in camp, &c.

SECTION 1. When the volunteer militia shall be engaged in camp duty, each company roll-call, during the term of encampment, shall be made under the supervision and in presence of a regimental or commissioned staff officer, to be designated by the commanding officer of any regiment or battalion to which said company shall be attached; and said commanding officer shall certify upon the duplicate returns of duty in camp, now by law required to be made by commanders of companies, that such company did, on the several days of encampment, well and faithfully perform all the duties required by law on such days, and that the number of officers, non-commissioned officers, musicians and privates, reported as present and doing duty each day, in such duplicate returns, is correct. And no compensation shall be allowed to any person who shall not remain in camp, and perform all required duties during the period of said encampment; excepting that any person who shall once appear, and be excused from further duty by reason of sickness, shall be entitled to compensation for the time he is actually engaged in service.

Compensation.

Amount allowed to cities and towns for armories to be determined by adjutant-general.

SECTION 2. The amount to be allowed to the several cities and towns, for defraying the expense of armories furnished to companies of the volunteer militia, shall be adjudicated and determined by the adjutant-general, within the limit of existing law; and the said adjutant-general shall be the sole commissioner for the purpose specified in the third section of chapter one hundred and eighty-eight of the acts of eighteen hundred and fifty-three.

Companies may be disbanded when reduced below thirty-two.

SECTION 3. When any company of said militia shall appear, from any return made to the adjutant-general, to be reduced below thirty-two privates, present and doing duty, at the time for which said return shall be made, said company may be forthwith disbanded by the commander-in-chief.

SECTION 4. No election of officers shall be ordered in any company, hereafter organized, unless at least fifty men shall have enlisted in said company; and no company shall be hereafter organized, if the same shall cause the whole number of the volunteer militia to exceed five thousand officers and men.

No election of officers in companies of less than fifty.

Number of militia not to exceed five thousand.

SECTION 5. Not more than fifty privates shall hereafter be returned for bounty, for the performance of militia service in any infantry or rifle company: and no company shall hereafter return for pay, but one captain, one first and one second lieutenant, four sergeants, four corporals and two musicians: and no election shall hereafter be ordered for any third or fourth lieutenant.

Number of privates and officers to be returned for bounty.

SECTION 6. The two divisionary companies of cadets, and such third and fourth lieutenants as may be in commission when this act shall take effect, are excepted from the restrictions of the fifth section.

Companies and officers excepted.

SECTION 7. No ground shall hereafter be occupied or used for a military encampment, in time of peace, without the consent of the selectmen of the town, or the mayor and aldermen of the city, where such encampment shall be made.

No ground to be used for encampment without consent of municipal authorities.

SECTION 8. The first section of chapter two hundred and eighteen of the acts of eighteen hundred and forty-nine; the fifth section of chapter one hundred and four of the acts of eighteen hundred and fifty-two; chapter three hundred and three of the acts of eighteen hundred and fifty-seven, and all other acts and parts of acts, inconsistent with this act, are hereby repealed: *provided*, that this repeal shall not revive any acts or parts of acts repealed in or by any of the acts herein referred to.

Repeal.

Proviso.

SECTION 9. This act shall take effect from and after its passage.

Approved March 27, 1858.

AN ACT CONCERNING ISSUES OF STOCK BY CORPORATIONS.

Chap. 167

Be it enacted, &c., as follows:

No corporation hereafter created by the authority of this Commonwealth, having a capital stock divided into shares, shall issue any shares in said capital stock, for a less sum or amount, to be actually paid in, on each share, than the par value of the shares which shall be first issued; unless the same shall be authorized by special provision of the act of incorporation, or by act of the legislature, subsequently obtained.

Corporations hereafter created, not to issue shares at less than par, unless by special authority.

Approved March 27, 1858

Chap. 168

AN ACT IN RELATION TO THE STATE ALMSHOUSES.

Be it enacted, &c., as follows :

Superintendents may contract for employment of inmates, and discharge them from institution, &c.

SECTION 1. The superintendents of the several state almshouses, shall have power, with the consent of the inspectors, to contract, with any person or persons, for the employment of any inmate of said institutions in any kind of lawful labor, for such wages or on such terms as the said superintendent and inspectors shall approve ; and whenever such contract shall be made, such inmate shall be discharged from the institution ; and if any inmate for whom such contract has been made, shall refuse to avail himself of the employment so offered, he shall forfeit all claim to support, as a state pauper.

SECTION 2. This act shall take effect from and after its passage.

Approved March 27, 1858.

Chap. 169

AN ACT TO INCORPORATE THE INDIA FIRE AND MARINE INSURANCE COMPANY.

Be it enacted, &c., as follows :

Corporators.

Name.

Location.

Purpose.

Privileges, restrictions, &c.

SECTION 1. George Peabody, Richard S. Rogers and John Bertram, their associates and successors, are hereby made a corporation for the term of twenty years from the passage of this act, by the name of the India Fire and Marine Insurance Company, to be established in the city of Salem, for the purpose of making insurance against losses and damage by fire, and maritime losses ; with all the privileges and powers, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes, and all other general laws in force relative to insurance companies.

Capital \$100,000, in shares of \$100 each.

Real estate not to exceed \$15,000.

SECTION 2. The said corporation shall have a capital of one hundred thousand dollars, divided into shares of one hundred dollars each, with liberty to pay in and increase the same to an amount not exceeding two hundred thousand dollars, and may hold real estate for its own use, not exceeding in value fifteen thousand dollars.

SECTION 3. This act shall take effect from and after its passage.

Approved March 27, 1858.

Chap. 170

AN ACT IN RELATION TO DELINQUENT AGENTS OF FOREIGN INSURANCE COMPANIES.

Be it enacted, &c., as follows :

Agent failing to make returns, &c., to be relieved from penalties incurred under acts of 1856 and 1858.

SECTION 1. Every agent of a foreign insurance company who has failed to make the returns, or to file the bond required by the two hundred and fifty-second chapter of the acts of eighteen hundred and fifty-six, shall be relieved from

the payment and forfeiture incurred by him under the provisions of the two hundred and fifty-second chapter of the acts of eighteen hundred and fifty-six aforesaid, and of the forty-ninth chapter of the laws of eighteen hundred and fifty-eight; and if said penalties and forfeitures have been paid by such agent, pursuant to the provisions of said acts, the amount so paid shall be refunded to him by the treasurer of the Commonwealth: *provided*, that within thirty days from the passage of this act, such agent shall file the bond or make the returns required by law as aforesaid, and also shall make it appear to the satisfaction of the treasurer of the Commonwealth that the neglect by which such penalty was incurred was occasioned by inadvertence and not by wilful neglect.

SECTION 2. It shall be the duty of the insurance commissioners to forward to each agent of the foreign insurance companies in the Commonwealth known to them, the appropriate blanks for the returns by said agents, required by the two hundred and fifty-second chapter of the acts of eighteen hundred and fifty-six.

Proviso

Commissioners to forward to agent blanks for returns.

Approved March 27, 1858.

AN ACT CONCERNING THE MIDDLEBOROUGH AND TAUNTON, THE OLD COLONY AND FALL RIVER, AND THE CAPE COD RAILROAD CORPORATIONS.

Chap. 171

Be it enacted, &c., as follows:

SECTION 1. The Middleborough and Taunton Railroad Corporation is hereby authorized to enter with its track, upon the lands of the Old Colony and Fall River and Cape Cod Railroad Companies, in Middleborough, at the point where it now enters upon the same, and to occupy and use the said lands, and the track of the Old Colony and Fall River Railroad Company, which it has heretofore, with the consent of said corporation occupied and used, and to extend said track northerly, and connect the same, subject to the provisions of the one hundred and ninety-first chapter of the acts of the year eighteen hundred and forty-five, and the two hundred and ninety-first chapter of the acts of the year eighteen hundred and fifty-seven, by suitable switch or switches, with the main tracks of the Old Colony and Fall River, and Cape Cod Railroads, at the principal point of connection between said Cape Cod, and Old Colony and Fall River Railroads; all such switches to be so placed, adjusted and used, as not to interfere with the convenient use of its own road by the said Old Colony and Fall River Railroad Company, and to be under its control: *provided, however*, that if said Old Colony and Fall River Railroad

Middleboro' and Taunton Railroad Co. may enter upon lands of Old Colony and Fall River and Cape Cod Railroad Co's in Middleboro', and occupy same and track of Old Colony and Fall River Railroad Co., extend said track and connect same with Old Colony and Fall River and Cape Cod Railroads, &c., subject, &c.

Company, shall, at any time hereafter, construct a second or double track upon its said railroad, from Bridgewater to its depot in Middleborough, and shall give said Middleborough and Taunton Railroad Corporation, four months' notice in writing, of its intention so to do, then said Middleborough and Taunton Railroad Corporation shall, at the expiration of said four months, cease to occupy and use the aforesaid track of the said Old Colony and Fall River Railroad Company, which they are herein before authorized to use; but said Middleborough and Taunton Railroad Corporation shall be entitled, instead thereof, to lay down and occupy, upon any land of said Old Colony and Fall River, and Cape Cod Railroad Companies, lying westerly of said second track, and at a convenient distance therefrom, a new track, for the same purposes and use, and of the same kind, as it shall, under the authority of this act, have occupied and used before such notice, and to connect the same with the main tracks of the Old Colony and Fall River, and Cape Cod Railroads, as nearly as may be, at the same point at which it is herein before authorized to connect with said railroads.

Limited to provisions of this act.

SECTION 2. The said Middleborough and Taunton Railroad Corporation shall not enter upon, or connect with either the said Old Colony and Fall River, or Cape Cod Railroad, at any other point, or in any other manner, than is in this act before provided.

Compensation.

SECTION 3. The Middleborough and Taunton Railroad Corporation shall pay a reasonable annual compensation to the Old Colony and Fall River, and Cape Cod Railroad Companies for the use of their land, track, and such depot and other accommodations, as said Middleborough and Taunton Railroad Corporation has heretofore, or shall hereafter enjoy; and if said corporations shall not agree upon the sums so to be paid, or upon the periods when the main tracks of the Old Colony and Fall River Railroad are to be used, as aforesaid, then either party may apply to the supreme judicial court, for the appointment of commissioners, who shall determine the same, according to the provisions of the one hundred and ninety-first chapter of the acts of the year eighteen hundred and forty-five, the two hundred and ninety-first chapter of the acts of the year eighteen hundred and fifty-seven, and of this act.

Construction of act.

SECTION 4. Nothing in this act contained shall be construed to authorize either of the railroad corporations herein named, to enter upon the main track or tracks of either of the other of said corporations, with any locomotive, without the consent of said other corporation, except for the purpose

of transferring the cars of one corporation from their railroad to the railroad of the other corporations.

SECTION 5. The several locations of the Middleborough and Taunton, the Old Colony and Fall River, and the Cape Cod Railroad Corporations are hereby confirmed; and said corporations, or either of them, are hereby authorized, at any time within one year from the passage of this act, to file new descriptions of the whole, or any part, of their locations as the same now exist.

Locations confirmed, and new descriptions of same authorized to be filed.

Approved March 27, 1858.

AN ACT CONCERNING THE PURCHASE AND SALE OF SPIRITUOUS AND
INTOXICATING LIQUORS FOR TOWN AGENTS.

Chap. 172

Be it enacted, &c., as follows:

SECTION 1. Whoever may be appointed by the governor, by and with the advice and consent of the council, to purchase and sell spirituous or intoxicating liquors to the several agents appointed or to be appointed under the provisions of chapter four hundred and seventy of the acts passed in the year one thousand eight hundred and fifty-five, entitled "An Act concerning the Purchase and Sale of Spirituous or Intoxicating Liquors," shall hold office for the space of one year from the date of his commission, or until a successor shall be duly commissioned and qualified in his stead, unless sooner removed by the governor.

Term of office of commissioner.

SECTION 2. All spirituous or intoxicating liquors kept for sale by the commissioner appointed for the purpose aforesaid, shall be analyzed by one of the state assayers; and such commissioner shall sell no spirituous or intoxicating liquors except such as one of said assayers shall, in writing, certify to be pure: the expense of such analysis, which shall not exceed one per cent. of the cost of the liquor, shall be paid by the commissioner, and may be by him charged as part of the cost of the liquor.

Liquors to be analyzed by state assayer.

SECTION 3. In case of the death or removal of the commissioner or person appointed for the purpose aforesaid, and the appointment of a successor, such successor shall purchase his predecessor's stock of spirituous or intoxicating liquors, which shall have been analyzed and certified as aforesaid, to an amount not exceeding twenty-five per cent. of his last year's sales.

Commissioner's successor to purchase his stock.

SECTION 4. If the parties cannot agree upon the value of the liquors so to be purchased, the same shall be fixed and determined by three persons, one to be appointed by the person so purchasing, one by the person owning the liquors, and the third by the two so appointed; and their award shall be binding on the parties.

In case of disagreement, value of stock to be fixed by appraisers.

Commissioner to report annually to secretary of Commonwealth.

SECTION 5. The commissioner or person appointed for the purpose aforesaid, shall annually, on or before the fifteenth day of October, report to the secretary of the Commonwealth the amount of sales of liquors to the city and town agents, in detail; the cost thereof, his commissions, expenses and profits thereon; designating, also, the cities and towns which shall not have made purchases of him. The account shall be made up to the last day of the preceding month. It shall be printed by the secretary and included with the public series of documents and laid before the legislature.

Commissioner may appoint agents in Boston.

SECTION 6. The person so appointed is hereby authorized to appoint, from time to time, agents for the sale of pure liquors to be used for chemical, mechanical, medicinal and manufacturing purposes, within the city of Boston, with the same powers and liabilities, and subject to the same obligations with the agents appointed by the selectmen of towns, and the mayor and aldermen of cities, by the provisions of section five of chapter two hundred and fifteen of the acts of the year one thousand eight hundred and fifty-five; and such person shall appoint so many of such agents, not exceeding five, as he shall think the interests of the citizens of the city of Boston may require: *provided*, that the authority of such agents shall not continue after the person by whom they are appointed shall have ceased to hold office; and the persons so appointed shall sell such pure liquors at the lowest cash market prices.

Proviso.

City and town agents to report annually to secretary of Commonwealth.

SECTION 7. Every city and town agent, appointed according to the provisions of law for the sale of spirituous or intoxicating liquors, shall annually, on or before the fifteenth day of October in each year, make a return to the secretary of the Commonwealth, of the amount and kind of liquors purchased by him as such agent, with the date of each purchase and the price paid for the same, together with the name of the party of whom purchased; and said returns shall be kept on file in the secretary's office, and he shall not be required to print the same.

Penalty.

SECTION 8. Any city or town agent failing to make such return as is provided in the preceding section, shall forfeit and pay a fine not exceeding one hundred dollars, to be recovered by complaint or indictment, before any court competent to try the same.

City and town authorities to appoint agents.

SECTION 9. The mayor and aldermen of every city, and the selectmen of every town in the Commonwealth, shall annually, appoint an agent or agents for the sale of pure, spirituous and intoxicating liquors for medicinal, mechanical,

manufacturing and chemical purposes, according to the provisions of the law.

SECTION 10. This act shall take effect from and after its passage.

Approved March 27, 1858.

AN ACT SUPPLEMENTARY TO AN ACT MAKING APPROPRIATIONS FOR THE MAINTENANCE OF THE GOVERNMENT DURING THE CURRENT YEAR.

Chap. 173

Be it enacted, &c., as follows :

SECTION 1. The sums hereinafter mentioned are appropriated, and shall be allowed and paid out of the treasury of this Commonwealth, from ordinary revenue, upon the warrants of the governor, for the purposes specified, in addition to the appropriations contained in chapter eleven of the acts of the present year, to meet the current expenses of the year ending on the thirty-first day of December, one thousand eight hundred and fifty-eight; that is to say :

Additional appropriations for 1858.

For the mileage of representatives, additional, a sum not exceeding one hundred dollars.

Mileage of representatives.

For the compensation of the door-keepers, messengers and pages of the senate and house of representatives, and of such watchmen and fireman or firemen as may be employed in the state house, in accordance with the provisions of certain acts passed at the present session, a sum not exceeding seven thousand seven hundred dollars.

Compensation of door-keepers, &c.

For expenses incurred under former laws, authorizing employment of messengers and watchmen in the state house, two hundred and five dollars.

Expenses under former laws for messengers, &c.

For the authorized expenses of committees of the legislature, a sum not exceeding three hundred dollars.

Committees of legislature.

For the salary of the attorney for the county of Suffolk, three thousand dollars.

Attorney for Suffolk county.

For the salary of the assistant-attorney for the county of Suffolk, one thousand eight hundred dollars.

Assistant Att'y.

For the salary of the district-attorney for the eastern district, one thousand five hundred dollars.

Eastern District.

For the salary of the district-attorney of the northern district, one thousand five hundred dollars.

Northern.

For the salary of the district-attorney of the southern district, one thousand five hundred dollars.

Southern.

For the salary of the district-attorney of the middle district, one thousand three hundred dollars.

Middle.

For the salary of the district-attorney of the south-eastern district, one thousand dollars.

South-eastern.

For the salary of the district-attorney of the western district, one thousand two hundred dollars.

Western

North-western.	For the salary of the district-attorney of the north-western district, eight hundred dollars.
Land agent.	For the salary of the land agent, one thousand dollars.
Office expenses.	For the incidental expenses of the office of the land agent, a sum not exceeding fifty dollars.
Binding public documents.	For binding the "public" series of documents, a sum not exceeding eight hundred dollars.
Printing general laws.	For printing such number, not exceeding one hundred and fifty thousand, of the pamphlet edition of the general acts and resolves of the present year, for distribution of one copy thereof to each family, or each eight persons in the Commonwealth, in accordance with the provisions of chapter eighty-eight of the resolves of the year eighteen hundred and forty-seven, and chapter eighty-nine of the resolves of the year eighteen hundred and fifty, a sum not exceeding six thousand dollars.
Printing blue book.	For printing two thousand copies of the blue book edition of the acts and resolves of the present year, with the governor's messages and other matters in the usual form, but not including the constitution, a sum not exceeding one thousand dollars.
Printing report of board of agriculture.	For printing eight thousand copies of the report of the board of agriculture, a sum not exceeding four thousand five hundred dollars.
Publication of general laws.	For the publication of the general laws, and all other information intended for the public, in accordance with the provisions of chapter twenty-four of the resolves of the year one thousand eight hundred and fifty-seven, three hundred dollars.
Almshouses—Tewksbury, Monson, and Bridgewater. Hospital at Rainsford Island.	For the current expenses of the state almshouses, for the present year, not provided in chapter eleven of the acts of the present year, the following sums, namely: state almshouse at Tewksbury, a sum not exceeding thirty-six thousand dollars; state almshouse at Monson, a sum not exceeding thirty-three thousand eight hundred and thirty-six dollars; state almshouse at Bridgewater, a sum not exceeding twenty-eight thousand dollars; and for the current expenses of the hospital at Rainsford Island, for the remainder of the year, not provided in chapter eleven of the acts of the present year, a sum not exceeding seventeen thousand five hundred dollars.
Alien commissioners and agents.	For the compensation and expenses of the alien commissioners, and agents employed by them according to law, a sum not exceeding seven thousand dollars.
Superintendent alien passengers.	For the compensation and expenses of the superintendent

of alien passengers, a sum not exceeding seven thousand dollars.

For the expenses of the adjutant and quartermaster-general's department, a sum not exceeding four thousand dollars. Adjutant-general

For military bounty, a sum not exceeding thirty-nine thousand seven hundred dollars. Military bounty.

For military accounts, a sum not exceeding five thousand one hundred and eighty-five dollars. Military accounts

For the rent of armories, a sum not exceeding twelve thousand dollars. Rent of armories.

For the salaries of the judges of probate, as they are established by law, for six months, a sum not exceeding three thousand five hundred and sixty-two dollars and fifty cents. Judges of probate.

For the salaries of the judges of insolvency, as they are established by law, for six months, a sum not exceeding five thousand two hundred and twenty-five dollars. Judges of insolvency.

For the salaries of the registers of probate, as they are established by law, a sum not exceeding twelve thousand and fifty dollars. Registers of probate.

For the salaries of the registers of insolvency, as they are established by law, a sum not exceeding ten thousand four hundred and seventy-five dollars. Registers of insolvency.

For the salaries of the judges of the new courts of probate and insolvency, for six months, a sum not exceeding seven thousand nine hundred and fifty dollars. Judges of probate and insolvency.

For the compensation and expenses of the board of insurance commissioners, a sum not exceeding four thousand dollars: *provided*, that no part of said sum shall be paid for services rendered or expenses incurred by said commissioners subsequent to the first Wednesday of January, in the present year, in the preparation of their third annual report. Insurance commissioners.
Proviso.

To reimburse to the treasurers of the several counties, two-thirds of the costs of criminal prosecutions, in the manner prescribed by law, a sum not exceeding one hundred and fifty thousand dollars. Criminal prosecutions.

For the compensation of the messenger to the governor and council, eight hundred dollars. Messenger.

For the compensation of the assistant-messenger to the governor and council, three hundred and sixty-five dollars. Assistant do.

For the compensation of the copyists and assistants employed upon the New Plymouth Records, in the office of the secretary of the Commonwealth, during the month of Copyists on Plymouth Records.

January, one thousand eight hundred and fifty-eight, a sum not exceeding seven hundred dollars.

Blanks for cities and towns.

For the purchase, by the secretary of the Commonwealth, of blanks for the use of cities and towns, in the registration of births, marriages and deaths, a sum not exceeding three hundred and seventy-five dollars.

State prison.

For the support of the Massachusetts State Prison, in addition to the ordinary receipts of the institution, a sum not exceeding fifteen thousand dollars.

Courts of insolvency.

For certain expenses of the courts of insolvency, authorized by section twenty-three of chapter two hundred and eighty-four of the acts of the year one thousand eight hundred and fifty-six, including unpaid accounts of the past year, or similar accounts for the new courts of probate and insolvency, a sum not exceeding three thousand dollars.

Repairs of state house.

For further repairs and improvements of the state house and furniture thereof, and in the grounds connected therewith, to be expended under the supervision of the commissioners of the state house, in accordance with the provisions of chapter sixty-five of the acts of the year one thousand eight hundred and fifty-seven, a sum not exceeding sixteen hundred dollars.

Fees of witnesses.

SECTION 2. The appropriation for fees of witnesses contained in chapter eleven of the acts of the present year, may be applied, so far as may be necessary, to pay the expenses of taking depositions in cases where they were ordered or authorized by committees; subject to the same conditions as are attached to said appropriation in said chapter eleven.

Contingent expenses of council, &c.

SECTION 3. The appropriation for contingent expenses of the council, senate and house of representatives, contained in chapter eleven of the acts of the present year, may be applied to pay any necessary expenses in and about the state house, including repairs; and not more than fifty dollars thereof may be applied to pay necessary expenses in or about the house numbered twelve in Hancock Street in the city of Boston; the whole appropriation being subject to the conditions attached thereto in said chapter eleven.

SECTION 4. This act shall take effect from and after its passage.

Approved March 27, 1858.

Chap. 174 AN ACT TO AUTHORIZE THE GRANITE RAILWAY COMPANY TO HOLD A MEETING FOR THE CHOICE OF OFFICERS.

Be it enacted, &c., as follows :

Any justice for Norfolk county may call a meeting, &c.

SECTION 1. Any justice of the peace for Norfolk county may call a meeting of the stockholders of the Granite Railway Company, first giving five days' notice to each stock-

holder, of the time, place, and purposes of holding the meeting. At such meeting it shall be lawful to choose all officers of the corporation, who shall hold their offices until the expiration of one year, and until others shall be legally chosen in their place; and to ratify, approve and adopt any or all past acts of persons who have heretofore acted as agents or officers of said corporation.

Officers, how
chosen, &c.

SECTION 2. Any person who has acted as clerk of said company, and kept a record of their meetings or doings, may append to such record his certificate, under oath, that the same is true; and the same shall thereupon have the same force and effect, and be admissible as evidence, as fully as if such person had been duly sworn, and had recorded his oath as clerk at or prior to the time of the making of such record.

Clerk may certify
to truth of re-
cord, &c.

SECTION 3. This act shall not affect any action now commenced, nor any rights now held or acquired by any other corporation or person.

Not to affect
pending suits, &c.

SECTION 4. This act shall take effect from and after its passage.

Approved March 27, 1858.

AN ACT TO AMEND "AN ACT TO PROTECT THE RIGHTS AND LIBERTIES OF THE PEOPLE OF THE COMMONWEALTH OF MASSACHUSETTS."

Chap. 175

Be it enacted, &c., as follows:

SECTION 1. No person holding any judicial office under the laws of the United States, or the office of commissioner of the circuit court of the United States, shall hold any judicial office under the constitution and laws of this Commonwealth, except that of justice of the peace: nor shall any justice of the peace, while holding the office of a commissioner of the United States circuit court, have authority to grant any warrant or to issue any process, civil or criminal, other than summonses to witnesses, or to hear and try any cause, civil or criminal, under the laws of this Commonwealth.

No person hold-
ing judicial office
under laws of
United States to
hold office under
laws of this State,
except, &c.

SECTION 2. The penalties prescribed by the fifteenth and sixteenth sections of the four hundred and eighty-ninth chapter of the acts of the year eighteen hundred and fifty-five, shall not apply to any act of military obedience and subordination performed by any officer or private of the militia of this Commonwealth.

Penalties not to
apply to military
obedience, &c.

SECTION 3. The tenth, eleventh, twelfth, thirteenth and fourteenth sections of the four hundred and eighty-ninth chapter of the acts of the year one thousand eight hundred and fifty-five, are hereby repealed.

Repeal.

Approved March 27, 1858.

Chap. 176 AN ACT TO ALLOW THE PRESIDENT AND FELLOWS OF HARVARD COLLEGE TO RESIGN THEIR TRUSTS CONCERNING THEOLOGICAL EDUCATION, AND THE MAINTENANCE OF A THEOLOGICAL SCHOOL.

Be it enacted, &c., as follows :

Officers authorized to resign trusts for maintenance of theological school.

SECTION 1. The president and fellows of Harvard College, with the consent of the board of overseers, are hereby authorized and empowered to resign the trusts heretofore assumed or accepted by them, for the establishment, maintenance or support of a theological school, as a department of the said college, or for the encouragement, support or compensation of the teachers, professors, officers or students of such theological school, or for the support of theological education in said college, or any of the same.

Supreme judicial court authorized to receive resignation and appoint new trustees.

SECTION 2. The supreme judicial court, sitting in equity, within and for either of the counties of Suffolk or Middlesex, is authorized and empowered, upon the petition of said president and fellows of Harvard College, with the consent of the board of overseers, to receive and accept such resignation, and thereupon to appoint, "The Society for the promotion of Theological Education," or any other suitable person or persons, or corporation, as the trustee or trustees in the place of the said president and fellows of Harvard College, and to pass all suitable orders and decrees to transfer to the trustee or trustees so appointed, all the funds and property now held by the said president and fellows of Harvard College, in trust, for the support of a theological school, or the officers, teachers or students thereof, or for the support or promotion of theological education in said college, and to provide for the due custody and administration thereof, as nearly as possible, according to the will of the donors.

How construed.

SECTION 3. This act shall not be construed to authorize the transfer, to any new trustee or trustees, of any funds which have heretofore been used, bequeathed or given, in whole or in part, for the education of undergraduates.

Approved March 27, 1858.

Chap. 177 AN ACT FOR THE BETTER ESTABLISHMENT OF THE BOARD OF INSURANCE COMMISSIONERS.

Be it enacted, &c., as follows :

Board to consist of two commissioners.—Salary.

SECTION 1. The board of insurance commissioners shall hereafter consist of two commissioners, who shall receive an annual salary of fifteen hundred dollars each, payable in quarterly instalments, on the first days of January, April, July and October, respectively, in lieu of the *per diem* compensation and clerk hire, authorized by the fourth section

of the one hundred and twenty-fourth chapter of the acts of the year eighteen hundred and fifty-five.

SECTION 2. It shall be the duty of said commissioners Duties of commissioners. to visit and examine, whenever they shall deem it necessary, any insurance company, or loan fund association, in this Commonwealth; and it shall be their duty so to do whenever they shall be requested, in writing, by five persons, each of whom is either a stockholder, or a creditor, or is in some way pecuniarily interested in said company or association; and it shall be the duty of said commissioners to calculate the existing value, on some day in every year, designated by them, of all outstanding policies of life insurance, in companies authorized to make insurance on lives in this Commonwealth; and such calculated values shall be included by the insurance commissioners in their annual report to the legislature. All companies making insurance upon lives, or their agents, in this Commonwealth, shall furnish to the commissioners an attested statement, certified in the same manner in which their returns are now required to be certified, setting forth in form the number, date and amount of each policy, and the age of the insured at the period of its date; in default whereof the said companies, or their agents, shall be liable to the same penalties as are imposed by law, for neglect to make returns.

SECTION 3. All acts and parts of acts inconsistent with this act, are hereby repealed.

Approved March 27, 1858.

RESOLVES,

GENERAL AND SPECIAL.

RESOLVE IN FAVOR OF LAW LIBRARY ASSOCIATIONS.

Chap. 1.

Resolved, That the secretary of the Commonwealth be, and he is hereby authorized to furnish upon application, one copy of the acts and resolves passed by the general court, and also one copy of such volumes of the special laws of the Commonwealth, as he may have in his possession, not otherwise appropriated or required for the use of the Commonwealth, to the Social Law Library, located in the county of Suffolk; and also, to each law library association, which shall have been duly organized in conformity with the ninety-fourth chapter of the acts of the year eighteen hundred and forty-two, or the one hundred and eighty-fourth chapter of the acts of the year eighteen hundred and fifty-six.

Approved February 23, 1858.

Secretary to furnish copies of laws to libraries.

RESOLVE RELATING TO THE STATE LIBRARY.

Chap. 2.

Resolved, That the trustees and librarian of the state library be, and they hereby are authorized to expend, in procuring furniture and other necessary conveniences for the library, such part as they may judge proper of the annual appropriation for the support of the library, provided by law.

Approved February 24, 1858.

Trustees to purchase furniture, &c., from appropriations.

RESOLVE TO AUTHORIZE THE PAYMENT OF CERTAIN LOST COUPONS, DUE OCTOBER FIRST, ONE THOUSAND EIGHT HUNDRED AND FIFTY-SEVEN.

Chap. 3.

Resolved, That the treasurer of this Commonwealth be, and he hereby is authorized to pay to the president, directors and company of the Bank of Commerce, in Boston, the sum of four hundred and twenty-five dollars, being the amount of interest due on the first day of October, one thousand eight hundred and fifty-seven, expressed in seven-

Treasurer to pay Bank of Commerce \$425.

Proviso.

teen coupons, numbered one to seventeen inclusive, attached to scrip issued in the year one thousand eight hundred and fifty-four: *provided*, that said president, directors and company shall first give to the treasurer a sufficient bond to indemnify the Commonwealth against any loss or damage by reason of such payment.

Approved February 26, 1858.

Chap. 4. RESOLVES IN RELATION TO TOWN LINES BETWEEN THE TOWNS OF MARION AND WAREHAM.

Commissioners to establish boundary line.

Resolved, That three commissioners be appointed by his excellency the governor, by and with the advice and consent of the council, whose duty it shall be, after having duly notified the clerks of the towns of Marion and Wareham, of the time and place appointed for hearing the parties, to establish the boundary line, now in dispute between the towns of Marion and Wareham, and duly report the same.

Expenses

Resolved, That the said towns of Marion and Wareham shall be required to defray the costs of said commission, each of said towns paying one-half of the same.

Approved March 6, 1858.

Chap. 5. RESOLVE ON THE PETITION OF JAMES LAWRENCE AND OTHERS.

Conveyances made by executors confirmed.

Resolved, On the petition of James Lawrence and others, and for the reasons set forth therein, that the conveyances made by the executors of the will of Abbott Lawrence, of certain real estate to Edward S. Rand, by eight several deeds, all bearing date the eighteenth day of August, in the year eighteen hundred and fifty-seven, and recorded in Suffolk registry of deeds, and the several conveyances by the said Rand, by deeds annexed thereto, to the said James Lawrence, T. Bigelow Lawrence and Abbott Lawrence, and to James Lawrence, Benjamin S. Rotch, Charles H. Parker, T. Bigelow Lawrence and Abbott Lawrence, as trustees for James Lawrence, T. Bigelow Lawrence, Abbott Lawrence, Annie B. Rotch and Katharine B. Lowell, which conveyances were made in part satisfaction and payment of certain specific legacies, given in and by the said will, be, and the same are hereby confirmed.

Approved March 6, 1858.

Chap. 6. RESOLVE ON THE PETITION OF THE NEW NORTH RELIGIOUS SOCIETY.

Society authorized to mortgage real estate.

Resolved, That the New North Religious Society are hereby authorized and empowered to convey in mortgage, for the purpose of raising a sum not exceeding ten thousand dollars, to defray the debts and liabilities of said society, all or any part of that real estate, situate in the city of Boston,

which they hold through mesne conveyances, under the deed of Thomas Hutchinson to the deacons of their church, dated the fourth day of February, in the year one thousand seven hundred and seventeen, and recorded in the Suffolk registry of deeds, book thirty-two, page two hundred and twenty,—discharged from any and all conditions and trusts declared and contained, or supposed to be declared and contained in the deed aforesaid, or in any other deed or deeds through which they have derived their title to said real estate: *provided, however*, that this resolve shall, within one year from its passage, be accepted and the conveyance aforesaid authorized by said society, at a meeting legally notified and called for that purpose.

Proviso.

Approved March 11, 1858.

RESOLVE IN FAVOR OF THE MASSACHUSETTS SCHOOL FOR IDIOTIC AND FEEBLE-MINDED YOUTH. *Chap. 7.*

Resolved, That the sum allowed to the treasurer of the Massachusetts School for Idiotic and Feeble-Minded Youth, according to chapter forty-four of the resolves of the year one thousand eight hundred and fifty-one, be increased for the current year to the sum of seven thousand five hundred dollars, which shall be used and applied according to the conditions of said forty-fourth chapter.

\$7,500 appropriated for current year.

Approved March 11, 1858.

RESOLVE IN FAVOR OF THE MASSACHUSETTS CHARITABLE EYE AND EAR INFIRMARY. *Chap. 8.*

Resolved, That the sum of twenty-five hundred dollars be, and the same is hereby allowed from the treasury of the Commonwealth, to the Massachusetts Charitable Eye and Ear Infirmary, to be expended during the current year, under the direction of the trustees, for the charitable purposes of said infirmary: *provided*, that the said trustees report to the legislature, during the month of January next, the manner in which this appropriation has been expended.

\$2,500 expended under direction of trustees.

Proviso.

Approved March 12, 1858.

RESOLVE ON THE PETITION OF JOHN MCGRATH.

Chap. 9.

Resolved, For reasons set forth in said petition, there be allowed and paid out of the treasury of the Commonwealth, to John McGrath, of Worcester, the sum of two hundred and fifty dollars as a gratuity from the state for injuries received by him in the state lunatic hospital at Worcester.

\$250 to John McGrath.

Approved March 16, 1858.

Chap. 10.

RESOLVE IN FAVOR OF THE STATE BOARD OF AGRICULTURE.

\$4,000 appropriated.

Resolved, That the sum of four thousand dollars be allowed to the State Board of Agriculture, subject to the drafts of the treasurer of said board, to enable said board to execute properly its contract with the trustees of the State Reform School, and for the purchase of stock and necessary improvements on the farm; which sum of four thousand dollars, or such portion thereof as may be found necessary, shall be expended as follows, to wit: To pay the trustees of the State Reform School for the labor of the boys, a sum not exceeding two thousand dollars; to purchase cows and other live stock, a sum not exceeding one thousand dollars; to pay for laying walls, furnishing the grounds intended for a garden, setting out an orchard, paying the institution for offal, and other current expenses, a sum not exceeding one thousand dollars: *provided*, that no part of said sum of four thousand dollars, shall be expended in improvements or on contracts which will require a further expenditure for their completion.

Approved March 16, 1858.

Proviso.

Chap. 11.

RESOLVE IN FAVOR OF THE CITY OF WORCESTER.

\$164.82 to the city of Worcester

Resolved, That there be allowed to the city of Worcester, from the treasury of the Commonwealth, the sum of one hundred and sixty-four dollars and eighty-two cents, to reimburse to said city the amount paid to the state lunatic hospital at Worcester, for the support of Frances Collison, from June first, eighteen hundred and fifty-three, to December first, eighteen hundred and fifty-four, and for the support of Ann Smith from April fourteenth to June first, eighteen hundred and fifty-four; both of whom were subsequently ascertained to be state paupers.

*Approved March 17, 1858.**Chap. 12.*

RESOLVE TO PROVIDE FOR THE DESTRUCTION OF CERTAIN CANCELLED SCRIP.

Treasurer authorized to destroy scrip, &c.

Resolved, That the treasurer of this Commonwealth is hereby authorized and directed, in the presence of the auditor, and of any committee of the council who may be appointed for the purpose of witnessing the same, to destroy the scrip or certificates of debt bearing interest at the rate of five per cent. per annum, made by authority of chapter one hundred and thirty-four of the acts of the year one thousand eight hundred and fifty-four; new scrip, bearing interest at the rate of six per cent. per annum, having been issued in lieu thereof, by authority of chapter two hundred and forty-four of the acts of the year one thousand eight

hundred and fifty-seven; and said treasurer, auditor and committee, or a major part of them, shall thereupon certify the fact that said scrip has been destroyed, and their certificate shall be preserved in the office of the treasurer.

Approved March 19, 1858.

RESOLVES AUTHORIZING THE TREASURER TO BORROW MONEY IN ANTICIPATION OF THE REVENUE. *Chap. 13.*

Resolved, That all notes which may hereafter be given for money borrowed in anticipation of the revenue, shall be signed by the treasurer, approved by the governor, and countersigned by the auditor; and no note hereafter given shall be valid unless it is thus signed, approved and countersigned.

Notes to be signed by treasurer, approved by governor and countersigned by auditor.

Resolved, That chapter ninety-nine of the resolves of the year one thousand eight hundred and fifty-seven, is hereby repealed: *provided*, that this repeal shall not affect the validity of any notes given in accordance with its provisions prior to the passage of these resolves.

Repeal.

Proviso.

Resolved, That the treasurer be, and he hereby is authorized to require of the several banks in this Commonwealth, a loan of such sum or sums of money as may, from time to time, be necessary for the payment of the ordinary demands upon the treasury, within the current year; or he may borrow in like manner, of individuals or corporations; and he shall repay any sum which he may borrow, as soon as money sufficient for the purpose, not required for any other purpose, shall be received into the treasury: *provided*, that the whole amount of the temporary loan authorized by this resolve, and previous resolves, shall not at any time exceed five hundred thousand dollars.

Treasurer authorized to borrow of banks, &c.

Approved March 23, 1858.

RESOLVES IN RELATION TO THE DISTRIBUTION OF THE NEW PLYMOUTH RECORDS. *Chap. 14.*

Resolved, That in lieu of the manner heretofore provided for distributing the eight hundred printed copies of the several volumes of the New Plymouth Records, the following distribution is hereby established, and shall be made by the secretary of the Commonwealth; that is to say:

Distribution of records by secretary.

One copy to every city and town in the Commonwealth;

One copy to each registry of deeds, to be preserved with the public records;

One copy to each county law library;

One copy to each of the States and Territories of the Union;

One copy to the department of State of the United States;

One copy to the library of Congress ;
 One copy to the Smithsonian Institution ;
 One copy to the governor of this Commonwealth ;
 One copy to the lieutenant-governor ;
 One copy to the secretary of the Commonwealth ;
 One copy to the president of the Senate, and one copy to the speaker of the House of Representatives ;
 One copy to each of the justices of the supreme judicial court of this Commonwealth ;
 One copy to the president of the United States ;
 Twelve copies to the trustees of the state library, to be used for international exchanges ;
 One copy to the Pilgrim Society ;
 One copy to the Boston Athenæum ;

One copy to each incorporated college, and to each law school and each theological seminary in this Commonwealth ; one copy to each incorporated and free public library, and each incorporated historical and antiquarian society, (not already supplied,) within the Commonwealth: and the residue shall remain in the custody of the secretary of the Commonwealth, to be sold at a reasonable price, fixed by him, to any person or persons or institutions who may wish to purchase the same ; and the proceeds of such sales shall be paid into the treasury of the Commonwealth.

No city, town, registry, state, territory, department, library, institution, society, college or person to whom the records have been distributed under a former resolve, shall receive the same by virtue of the provisions of this resolve.

Account to be kept.

Resolved, That an exact account shall be kept by the secretary of the receipt and distribution of all the copies of said Records ; and an annual statement of the account shall be submitted to the legislature.

Repeal.

Resolved, That so much of the resolves of the year one thousand eight hundred and fifty-five, chapter nineteen, and of the resolves of the year one thousand eight hundred fifty-seven, chapter one hundred and seven, as is inconsistent with the provisions of these resolves, is hereby repealed.

Approved March 23, 1858.

Chap. 15.

RESOLVE IN FAVOR OF THE TOWN OF CHILMARK.

\$70.19 to the town of Chilmark

Resolved, That there be allowed to the town of Chilmark, from the treasury of the Commonwealth, the sum of seventy dollars and nineteen cents, to reimburse the expenses incurred by that town in the support of Prince Johnson and family, members of the Gay Head tribe of Indians.

Approved March 24, 1858.

RESOLVE FOR THE PAYMENT OF THE COMMISSIONERS ON BOSTON
HARBOR.

Chap. 16.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, to S. S. Lewis and Ezra Lincoln, commissioners on survey of Boston Harbor, acting under Resolve of April seventh, eighteen hundred and forty-seven, the sum of fifteen hundred and ninety-seven dollars and twenty-five cents, in full payment of expenses and services rendered under said resolve.

\$1,597.25 to com-
missioners on
survey of Boston
harbor.

Approved March 24, 1858.

RESOLVE IN RELATION TO INMATES OF STATE ALMSHOUSES.

Chap. 17.

Resolved, That the superintendents of the state alms-houses be, and hereby are directed to permit the inmates of the said institutions to receive the ministrations of clergy-men of their own religious faith, under such regulations as the inspectors of the same may, from time to time, agree upon for the purpose of preserving proper order and discipline.

Inmates to have
clergy of their
own religious
faith.

Approved March 25, 1858.

RESOLVES ON THE PETITION OF DARIUS A. MARTIN.

Chap. 18.

Resolved, That for the reasons set forth in the petition of Darius A. Martin, he is hereby empowered and authorized to deliver up to the agent appointed under the act entitled "An Act concerning the Purchase of Spirituous and Intoxicating Liquors for Town Agents," certain spirituous and intoxicating liquors held by him as a public officer described in said petition; and that said agent thereupon cause to be destroyed all of such liquors: *provided, however*, that if any of the same are, in the judgment of said agent, of sufficiently pure quality for the purposes set forth in said act, he shall allow the fair value of such portion thereof, and of the casks and vessels containing said liquor, and pay over the same into the treasury of the Commonwealth.

Authorized to de-
liver to agent
certain liquors.

Agent to destroy
liquors.
Proviso.

Resolved, That upon filing an affidavit of his surrender of all said liquors as provided above, the auditor of the Commonwealth be authorized to allow the said Martin such amount of his bill for charges and expenses in the custody and storage thereof, as may by him be deemed reasonable and just, not exceeding the sum of one hundred dollars.

Affidavit to be
filed, &c. Audi-
tor may allow
\$100 for expenses

Approved March 25, 1858.

RESOLVE ON THE PETITION OF WILLIAM L. BEMIS.

Chap. 19.

Resolved, That there be allowed to William L. Bemis, of Springfield, the sum of fifty dollars in indemnification for

\$50 to William
L. Bemis.

certain expenses incurred by him, while acting as a justice of the peace, under the provisions of chapter three hundred and twenty-two of the acts of the year one thousand eight hundred and fifty-two, entitled "An Act concerning the Manufacture and Sale of Spirituous or Intoxicating Liquors."

Approved March 26, 1858.

Chap. 20. RESOLVE IN RELATION TO THE STATE INDUSTRIAL SCHOOL FOR GIRLS.

\$400 appropriated to purchase land.

Resolved, That the sum of four hundred dollars be, and the same is hereby allowed, to be applied by the trustees of the State Industrial School for Girls, at Lancaster, for the purpose of purchasing a lot of land, containing about six acres, the same to be conveyed to the Commonwealth for the use of said school.

Approved March 26, 1858.

Chap. 21. RESOLVE IN FAVOR OF ALBERT H. NELSON, LATE CHIEF JUSTICE OF THE SUPERIOR COURT OF THE COUNTY OF SUFFOLK.

\$1,734 to Albert H. Nelson.

Resolved, That for reasons set forth in the message of the governor in this behalf, there be allowed out of the treasury of the Commonwealth, to Albert H. Nelson, late chief justice of the superior court of the county of Suffolk, the sum of seventeen hundred and thirty-four dollars, to be disbursed in the discretion of the governor.

Approved March 26, 1858.

Chap. 22. RESOLVE CONCERNING RAINSFORD ISLAND HOSPITAL.

\$2,436.05 to Rainsford Island Hospital.

Resolved, That the sum of two thousand four hundred and thirty-six dollars and five cents be and is hereby allowed to the inspectors of the Rainsford Island Hospital, for the purpose of discharging the debt incurred in building a pier and pier head at said island.

Approved March 26, 1858.

Chap. 23. RESOLVE ON THE PETITION OF ALFRED FLANDERS.

\$154.73 to Alfred Flanders.

Resolved, That there be allowed and paid from the treasury of the Commonwealth, to Alfred Flanders, constable of the town of Salisbury, the sum of one hundred and fifty-four dollars and seventy-three cents, to defray the expenses of defending a suit against himself, as such officer, as stated in his petition.

Approved March 26, 1858.

Chap. 24. RESOLVE IN FAVOR OF BARNARD C. MARCHANT.

\$69 to Barnard C. Marchant.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, to Barnard C. Marchant, guardian of the Christiantown and Chapequiddie Indians, the sum of sixty-nine dollars, for the board and burial expenses of Margaret Peters, a member of the Chapequiddie

tribe, who died March first, eighteen hundred and fifty-seven.

Approved March 26, 1858.

RESOLVE IN RELATION TO PROFESSOR HITCHCOCK'S GEOLOGICAL
REPORT.

Chap. 25.

Resolved, That one thousand copies of Professor Hitchcock's Geological Report on the Sandstone of the Connecticut Valley, authorized to be printed by chapter eighty-three of the resolves of the year one thousand eight hundred and fifty-seven, be printed at the expense of the Commonwealth, under the direction of the committee on the library; and that, in addition to the distribution already authorized, one hundred copies of said report be given to Professor Hitchcock, three copies to the state library, and twelve copies to the trustees of the state library, to be used for the purpose of international exchanges.

Approved March 26, 1858.

1,000 copies to be printed at expense of Commonwealth.

Distribution.

RESOLVES FOR THE APPOINTMENT OF A SPECIAL JOINT COMMITTEE
ON PUBLIC CHARITABLE INSTITUTIONS.

Chap. 26.

Resolved, That a joint committee, consisting of two members on the part of the senate, and three members of the house of representatives, be appointed to investigate the whole system of the public charitable institutions of the Commonwealth, and to recommend such changes, and such additional provisions, as they may deem necessary for their economical and efficient administration.

How appointed.
Duties of.

Resolved, That for the purposes above named, the committee shall be authorized to sit in the recess, with full power to examine said institutions and send for persons and papers, if it shall be found necessary so to do; and the said committee shall make a full report thereon to the next legislature.

When to sit and report.

Approved March 26, 1858.

RESOLVE IN FAVOR OF THE DUDLEY, TROY AND MARSHPEE INDIANS.

Chap. 27.

Resolved, That there be allowed from the appropriation for Indians, contained in chapter eleven of the acts of the present year, as follows: To the guardian of the Dudley Indians, a sum not exceeding five hundred dollars, for the support of said Indians from February first to December thirty-first, in the year eighteen hundred and fifty-eight, and in addition thereto, his salary at the rate of one hundred dollars per annum: to the guardian of the Troy Indians, a sum not exceeding four hundred dollars, for the support of said Indians from January first to December thirty-first, in the year eighteen hundred and fifty-eight, and for his salary during that time the further sum of fifty

\$1,150 appropriated for support of certain tribes of Indians, &c.

dollars: to the treasurer of the Marshpee Indians, a sum not exceeding one hundred dollars, for the support of certain paupers of that tribe.

Approved March 26, 1858.

Chap. 28. RESOLVES IN RELATION TO A SCIENTIFIC SURVEY OF BOSTON HARBOR.

Preamble.

Whereas, It is essentially necessary for commercial nations to maintain good and sufficient harbors, for the security of vessels engaged in their foreign and coasting trade, and for the accommodation of their navy; therefore it is of the first importance that every means should be adopted to protect and preserve the harbors on our coast: and *whereas*, the great facilities of the harbor of Boston for these several purposes, render it the imperative duty of the legislature to use every means in its power to perpetuate and preserve the said harbor in its present condition and usefulness; therefore,

Congress requested to direct a survey, &c.

Resolved, That the congress of the United States be respectfully requested to direct a scientific survey to be made of the harbor of Boston, by a competent board of engineers, with authority to said board to proceed at once, or as soon as may be, in the execution of that duty, with full powers to receive evidence, and to make all needful inquiries to enable it to present in its report well defined views of the character and condition of the harbor, and the means of preserving and improving the channels of the same, which can be made a reliable basis for all future legislative action, with reference to structures that may, at any time hereafter, be projected about its shores and estuaries.

Transmission of resolves.

Resolved, That his excellency the governor be requested to transmit a copy of the foregoing preamble and resolution, to the senators and representatives of Massachusetts in the congress of the United States, with a request to them that they will use all honorable means to procure the legislation therein recommended.

Approved March 26, 1858.

Chap. 29. RESOLVE IN AID OF THE ERECTION OF A FENCE AROUND FORT WASHINGTON.

\$2,000 appropriated.

Resolved, That the sum of two thousand dollars be, and the same is hereby allowed, for the erection of an iron fence around Fort Washington, in the city of Cambridge: *provided*, the city of Cambridge shall appropriate a sum sufficient to complete said fence, at a cost of not less than four thousand dollars, the whole to be expended under the direction of the adjutant-general, in connection with a committee of the city council of the city of Cambridge; and

Proviso.

further provided, that said Fort Washington shall always be accessible to the public, and that said city of Cambridge shall always keep the fence proposed to be built in good repair; and the governor is hereby authorized to draw his warrant therefor accordingly. *Approved March 26, 1858.*

Provided, further.

RESOLVE GRANTING AID FOR THE SUPPRESSION OF COUNTERFEITING BANK BILLS AND COIN. *Chap. 30.*

Resolved, That a sum not exceeding one thousand five hundred dollars be granted the present year, out of the treasury of the Commonwealth, to the association of banks for the suppression of counterfeiting, in this Commonwealth, for the purpose of the prevention and detection of the crime of making or tendering in payment as true, counterfeit bank bills, or counterfeit gold and silver coins; and that the governor be authorized to draw his warrant accordingly, from time to time, for such sums, not exceeding one thousand five hundred dollars, as shall be equal to one-third of the sum which said association shall certify, and prove to the governor, to have been raised and judiciously expended by said association for the purposes above specified.

\$1,500 appropriated.

Approved March 26, 1858.

RESOLVE IN FAVOR OF WILLIAM H. ELA.

Resolved, That in consequence of the injuries received by William H. Ela from the soldiery and police, in the city of Boston, on the second day of June, in the year eighteen hundred and fifty-four, the sum of thirty-five hundred dollars be granted to said Ela, to be paid over to him, or invested for his use, under the direction of the governor.

Chap. 31.

\$3,500 to William H. Ela.

Approved March 26, 1858.

RESOLVE IN FAVOR OF WILLIAM H. LUCE.

Resolved, That there be allowed from the treasury of the Commonwealth, to William H. Luce, of Tisbury, for medical services rendered to Prince Johnson, an Indian and state pauper, thirty-one dollars and seventy-five cents.

Chap. 32.

\$31.75 to William H. Luce.

Approved March 27, 1858.

RESOLVE REGARDING RAILROAD FACILITIES FOR FILLING BACK BAY. *Chap. 33.*

Resolved, First, That any parties contracting to fill up any lands and flats of the Commonwealth, and other owners, under the sanction of the commissioners on the Back Bay, are authorized to contract with any railroad corporation, by which steam-power is used, for the use of any portion of its road or location, for the transportation of materials over the

May contract for use of railroad to transport materials, &c.

Proviso.

Resolve of 1855
amended.

same; and any such corporation may contract with said parties for the use of any road that may be by them legally constructed, and for the transaction by them of business thereon, for the purposes of said corporation, so long as the same is being used for the transportation of materials by said parties under their contracts, and no longer: *provided*, that nothing contained in this resolve shall be construed to authorize the doing any thing which affects the legal rights of any of the owners of lands or flats in the Back Bay.

Resolved, Secondly, That chapter sixty of the acts and resolves of the year eighteen hundred and fifty-five, being "Resolves in favor of giving additional power to the commissioners on Boston Harbor and Back Bay," be amended by inserting after the word "thereon" and before the word "lay," in the sixth line of the second resolve, the words "or on and over any other portions of the lands and flats in and of said Back Bay."

Approved March 27, 1858.

Chap. 34.

RESOLVE ON THE PETITION OF JOHN RHODES.

\$152.58 to John
Rhodes

Resolved, That for services rendered and moneys paid in the prosecution of his petition before this general court against Abraham G. Randall, for official misconduct as a justice of the peace for the county of Worcester, there be allowed and paid from the treasury of the Commonwealth, to John Rhodes, of Millbury, in the county of Worcester, one hundred and fifty-two dollars and fifty-eight cents.

Approved March 27, 1858.

Chap. 35.

RESOLVE IN FAVOR OF HORACE I. HODGES.

\$225 to Horace I.
Hodges.

Resolved, That for reasons set forth in his petition, there be allowed and paid out of the treasury of the Commonwealth, to Horace I. Hodges, of Northampton, judge of the court of insolvency for the county of Hampshire, the sum of two hundred and twenty-five dollars; one hundred and fifty dollars being for his services for attending the court of insolvency in the county of Franklin, from the middle of August, eighteen hundred and fifty-seven, to the date of the passage of this resolve; and seventy-five dollars for his services for attending the court of insolvency in the county of Worcester, after the resignation of Alexander H. Bulloch, judge of that court, to the date of the passage of this resolve; said allowance being in accordance with the provisions of the fifth section of the two hundred and eighty-fourth chapter of the acts of eighteen hundred and fifty-six: and the governor is hereby authorized to draw his warrant accordingly.

Approved March 27, 1858.

RESOLVE IN FAVOR OF THE HASSANAMISCO INDIANS.

Chap. 36.

Resolved, That there be allowed out of the treasury of this Commonwealth, the sum of two hundred dollars, to be disbursed by the judge of probate of the county of Worcester, in such manner as most effectually to meet the present wants and necessities of the surviving members of the Hassanamisco tribe of Indians. \$200 for Hassanamisco Indians.

Approved March 27, 1858.

RESOLVE ON THE PETITION OF HANNAH COTTER.

Chap. 37.

Resolved, That for reasons set forth in said petition, Duncan Bradford, esquire, public administrator for the county of Middlesex, be, and he is hereby authorized to pay over to the mother of the late Cornelius Mannix, deceased, the amount of money that shall remain in his hands as public administrator, the proceeds of the effects and estate of the said deceased, after paying the claims against said estate; said payment to be made in such manner as the judge of probate for said county of Middlesex shall order and decree; and on filing the evidence of such payment in the office of the treasurer of the Commonwealth, the same shall be held to be a compliance with his duty and a discharge of his official bond, in the same manner and to the same extent as the payment of the same sum into the office of the treasurer aforesaid would be. Authorized to pay over funds under direction of judge of probate, &c.

Approved March 27, 1858.

RESOLVE GRANTING TAXES FOR THE SEVERAL COUNTIES.

Chap. 38.

Resolved, That the sums placed against the names of the several counties in the following schedule, be, and hereby are granted as a tax for each county respectively, to be assessed, paid, collected and applied, according to law, namely:

Essex—Eighty thousand dollars:

Middlesex—Ninety thousand dollars:

Worcester—Eighty-five thousand dollars:

Hampshire—Eighteen thousand dollars:

Hampden—Twenty-eight thousand dollars:

Franklin—Fourteen thousand dollars:

Berkshire—Twenty-two thousand dollars:

Norfolk—Forty thousand dollars:

Bristol—Fifty thousand dollars:

Plymouth—Twenty-seven thousand dollars:

Barnstable—Ten thousand dollars:

Dukes County—Two thousand and seven hundred dollars.

Approved March 27, 1858.

Chap. 39.

RESOLVE IN FAVOR OF ALLEN CUMMINGS.

\$94 to Allen
Cummings.

Resolved, That there be allowed out of the treasury of this Commonwealth, to Allen Cummings, the sum of ninety-four dollars, for compensation for his expenses in contesting the seat of Eliel Shumway, of Groton.

Approved March 27, 1858.

Chap. 40. RESOLVE IN FAVOR OF JOHN M. COLE, LANSING J. COLE AND ALMEDA ELLISON.

\$548 for mileage
and compensa-
tion of members.

Resolved, That there be allowed to John M. Cole, of Williamstown, the sum of one hundred and thirty dollars, and to Lansing J. Cole, of Cheshire, the sum of one hundred and ten dollars, in full for the mileage and compensation of those gentlemen, for the time during which they held seats as members of the house of representatives from the first and second Berkshire districts; also, that there be allowed to Almeda Ellison, of Duxbury, the sum of three hundred and eight dollars, in full for the mileage and compensation of William Ellison, deceased, late member of the house of representatives from the fifth Plymouth district.

Approved March 27, 1858.

Chap. 41. RESOLVES IN RELATION TO THE NEW PLYMOUTH RECORDS.

Secretary to em-
ploy one of his
clerks, &c.

Resolved, That the secretary of the Commonwealth be authorized to employ one of his clerks, at a rate of compensation not exceeding one thousand one hundred dollars per annum, to superintend the printing of the volumes of the New Plymouth Records now in the printer's hands, and to proceed with the copying of the other volumes as provided in previous resolves.

Repeal.

Resolved, That all resolves or parts of resolves which authorize the employment of editors, assistants or clerks, upon the work of the New Plymouth Records, otherwise than is provided in the preceding resolve, are hereby repealed.

Approved March 27, 1858.

Chap. 42. RESOLVES IN RELATION TO THE ADMISSION OF KANSAS.

Lecompton con-
stitution.

Whereas, The president of the United States has recently transmitted the Lecompton constitution to congress with a message recommending its ratification by that body, and there is reason to fear that it may be so ratified: and

How framed, &c.

Whereas, The aforesaid Lecompton constitution was framed by a convention which was the embodiment and consummation of a series of violent, usurping and fraudulent acts, by which the people of Kansas had been despoiled of

the right of self-government for more than three years—the members of that convention being chosen and convoked by a minority of the people, through the instrumentality of fraud, violence and official misconduct: and

Whereas, The people of Kansas at a legally authorized election holden on the fourth day of January, eighteen hundred and fifty-eight, rejected the aforesaid Lecompton constitution by a majority of more than ten thousand votes: and

Rejected by the people.

Whereas, It is entirely within the power of congress to reject the said Lecompton constitution, or to ratify a constitution which has received the approval of the people of Kansas, or to authorize them to form a constitution under such conditions as congress may prescribe; therefore,

Power of congress, &c.

Resolved, That in the judgment of the Commonwealth of Massachusetts, the proposed ratification of the Lecompton constitution would be an endorsement by congress of the oppression and outrages which have been practiced in Kansas, in the highest degree disgraceful to the national government; a breach of the national faith, solemnly pledged to the territory in her organic act; an abuse of the power of congress, and a flagrant violation of the fundamental principles of republican freedom.

Ratification of, by congress, an endorsement of outrages, &c.

Resolved, That as all government derives all its just powers from the will of the governed, as all political sovereignty resides in the people, and as the will of the majority is the ultimate and supreme power in the state; therefore, to force a constitution upon the people of Kansas, not only without their assent, but against their expressed will, would be treason against the principles of our institutions, a denial of the political faith of the framers of our constitution, and an act of tyranny which admits of no defence or palliation.

Forced upon the people against their will, treason, &c.

Resolved, That Massachusetts contemplates with dismay so grave a departure from those principles of popular self-government, of which this nation stands as the exemplar to the world,—principles, on which the liberties of this Commonwealth and her sister States depend; and that she raises her voice with no common alarm and indignation in solemn remonstrance against the act.

Remonstrance.

Resolved, That our senators be instructed, and our representatives in congress be requested, to oppose all attempts to force upon the people of Kansas a constitution against their assent.

Senators and representatives instructed, &c.

Resolved, That his excellency the governor be requested to transmit a copy of the foregoing preamble and resolves to

Transmission of resolves.

each of the senators and representatives of this state in congress.

Approved March 27, 1858.

Chap. 43. RESOLVE IN RELATION TO THE CONSOLIDATION AND ARRANGEMENT OF THE STATUTES OF THE COMMONWEALTH.

Commission to
terminate Dec.
31.

Resolved, That the commission for the consolidation and arrangement of the statutes of the Commonwealth be terminated on the thirty-first day of December next, and that the commissioners submit their report to the next legislature.

Approved March 27, 1858.

Chap. 44. RESOLVES IN RELATION TO THE DECISION OF THE SUPREME COURT OF THE UNITED STATES, IN CASE OF SCOTT *versus* SANDFORD.

Powers of court
limited to right-
ful authority.

Resolved, That while the people of Massachusetts recognize the rightful judicial authority of the supreme court of the United States, in the determination of all questions properly coming before it, they will never consent that their rights shall be impaired, or their liberties invaded, by reason of any usurpations of political power by said tribunal.

Slavery in Mass.
impossible.

Resolved, That slavery does not and cannot exist in the Commonwealth of Massachusetts.

Citizens of Mas-
sachusetts citi-
zens of United
States, including
negroes.

Resolved, That all citizens of Massachusetts are citizens of the United States; that all negroes, not aliens, domiciled within her limits, are citizens of Massachusetts, and are entitled to all the rights, privileges and immunities of citizenship, in the courts of the United States and elsewhere.

Dred Scott deci-
sion.

Resolved, That no part of the decision of the supreme court of the United States, in the case of Scott *versus* Sandford, is binding, which was not necessary to the determination of that case.

No cause in said
case to consider
Act of 1820.

Resolved, That in said case, there was no cause for the inquiry, on the part of the court, into the constitutionality of the act of congress of March sixth, eighteen hundred and twenty, known as the Missouri Compromise, whereby slavery north of thirty-six degrees, thirty minutes, in the territory acquired from France, was forever prohibited; that we hold said act to have been constitutional and valid; and that its repeal was unwise, a gross breach of faith, and the source of unmingled injustice and wrong.

Act held consti-
tutional and re-
peal denounced.

Slavery local,
freedom natural.

Resolved, That slavery can exist nowhere, except by positive law; while freedom is the natural condition of man.

Protection to sla-
very in territories
denied.

Resolved, That we regard the doctrine, that the constitution of the United States protects and maintains slavery in the territories, as unfounded, monstrous and a palpable contradiction, since the preamble to that instrument declares that it was formed to "secure the blessings of liberty," not

the curse of slavery, “to the people of the United States and their posterity.”

Resolved, That Massachusetts is unalterably opposed to any extension of the slave territory of the United States, and to any increase of slave representation in congress, by the admission of new states. Increase of slave territory and slave states opposed.

Resolved, That his excellency the governor be requested to transmit a copy of these resolves to the president of the United States, to the governors of each of the states and territories, and to each of our senators and representatives in congress. Governor to transmit copies of resolves.

Approved March 27, 1858.

APPENDIX.

ACTS OF 1858 CLASSIFIED.

General Statutes, or Acts of a public character,.....	121
Special Acts, relating to individuals and corporations,.....	56—177

APPROPRIATIONS.

I.—Amount of appropriations from ordinary revenue, for the maintenance of the government during the year 1858, contained in Chapter 11 of the Acts,.....	\$421,480 00
Ditto, contained in supplementary Act, (Chapter 173,)	440,878 50
Appropriation for the Emergency Fund, contained in Chapter 22 of the Acts,.....	10,000 00
Appropriations to meet expenditures authorized the present year, contained in Chapter 148 of the Acts, ...	20,060 31
	\$892,418 81

By Chapter 1 of the Acts. no appropriations are required for the payment of the principal or interest of the public debt, or for the salaries of the governor and judges of the supreme judicial court. The public debt, funded, is \$1,314,000; no portion of the principal becomes due in 1858; the annual interest amounts to \$70,700. The salaries of the governor and of the judges of the supreme judicial court amount to \$28,000.

The above includes the cost of maintaining every department of the government for the whole year 1858.

II.—Appropriations from ordinary revenue, on account of expenditures belonging to previous years, or growing out of the legislation of previous years, in behalf of special objects, (not current expenses,) contained in Chapter 24 of the Acts,.....	\$123,620 16
Ditto, in Chapter 131 of the Acts,.....	263,410 09
Final Appropriations to complete the Hospital for the Insane at Northampton, contained in Chapter 140 of the Acts,.....	58,000 00
	\$445,030 25

Besides the above, the amount of \$125,075.60 had been paid from the treasury between January 1, 1858, and January 22, when Chapter 1 of the Acts, requiring specific appropriations, took effect.

In the latter total are included,—one-quarter of the full amount of salaries, charities, and expenses of certain institutions; half the county balances,—and the whole of the militia bounty, military, sheriffs and pauper accounts for the year 1857;—the whole amount of these and other expenses for the year 1858 being also included in the first class of appropriations, recapitulated above.

INAUGURAL ADDRESS

OF

HIS EXCELLENCY NATHANIEL P. BANKS.

REPRESENTATIVES' CHAMBER, {
Jan. 7, 1858. }

At one half-past twelve o'clock, His Excellency the Governor, accompanied by His Honor the Lieutenant-Governor, the members of the Executive Council, and the various officers of the government, attended by a Joint Committee of the two Houses, and the Sheriff of Suffolk, met the Senate and House of Representatives, in Convention, and delivered the following

ADDRESS.

SENATORS AND REPRESENTATIVES :

The constitution of the Commonwealth commands frequent sessions of the legislature, for redress of grievances, correcting, strengthening and confirming the laws, and for making new laws, as the common good may require.

Assembled in obedience to this command, we cannot fail to make humble acknowledgments for the signal mercies with which Divine Providence has blessed our people.

The past year has been one of general health and peace within our borders. It has enriched us with the profits and pleasures of industry, and the varied treasures of earth and sea ; and though unforeseen calamities have for the moment swept from us superfluous wealth, we have acquired wisdom and new strength with which to reconstruct our fortunes.

The ancient system of town representation has disappeared. The character and institutions of the State are inseparably

identified with men who were trained to useful and patriotic service in these town democracies. It will be fortunate if the constituencies which have replaced them shall produce as able and patriotic legislators.

The funded debt of the Commonwealth is \$1,314,000. Provision has been made for \$1,098,000 of this debt, leaving a balance of \$215,000 unprovided for.

The Temporary Loan is now \$306,000. For its payment there is in Western Railroad Stock Fund, \$217,000; State tax of 1856 and 1857, still unpaid, \$236,000, and cash in the treasury, \$44,000, making the sum of \$497,000, and leaving a balance after the payment of the loan, of \$191,000, which can be applied to current expenses whenever it shall be received.

The current expenses of the last year amounted to \$1,362,503. The receipts of the State from all sources were \$1,483,166, of which \$735,041 were raised by a State tax.

The receipts from ordinary resources this year, are estimated at \$702,000. Unless the ordinary expenses of the current year be reduced below the standard of last year, there will be a deficit of \$659,803, to be paid by a State tax equal to that amount.

I make no question that the expenditures of last year were necessary and proper. The continuance, however, of an annual expenditure, for the ordinary business of government, of \$1,362,000 will not, in my judgment, admit of justification or defence. I recommend, therefore, a rigorous retrenchment of expenses—the discontinuance of commissions as far as practicable, and a reduction in the number of public officers, as far as it may be done without detriment to public service. I commend to your consideration the inquiry whether a consolidation of the courts of probate and of insolvency may not be advantageously made, and also whether there may not be made a limitation in the salaries of officers now paid in fees.

The cost of the legislative and executive service may be materially diminished, and the annual sessions of the legislature greatly shortened. It is incredible that the people of this State can require that one-half of the year should be devoted to making new laws for their government. It will not be found, in my judgment, that the diminished numbers of the present legislature will shorten the session. It is not yet settled whether large or small assemblies have a more fatal facility in consumption of time, or appropriations of money. Nor will constitutional or statute limitations of the term remedy this difficulty. The experiment in other States

will show that at the expiration of the term, public business is unfinished, or is hurried through with discreditable and dangerous haste. There are no rules for the exclusion of business that will relieve the session ; for public business that is excluded in one form, easily finds admission in another.

I know of no remedy for the evil to which I refer, but patient and persistent attention to the business of the session.

To obtain this result, I recommend that fixed and sufficient salaries be established for members and officers of the legislature, to be paid in lieu of compensation in other forms, and upon condition only of actual and constant attendance upon the sessions. In my judgment, the State will be best served by the payment of liberal salaries to legislative and judicial officers.

The people have a right to call into service their ablest men, who in their turn should have a right to demand, not as high a compensation as trade or professional pursuits would offer, but such at least as will be equal to their proper support while in public service.

The rules of a deliberative assembly should be framed upon the principle that members are in attendance, and not, as is sometimes the case, upon the idea that they are absent. Very little is gained by any attempt to suppress discussion. Every measure should be thoroughly debated at its appropriate stage, and then determined. The frequent repetition of debates and test votes, upon the same subject, invests a result oftentimes with many of the attributes of a chance decision, and detracts from the dignity of deliberation.

A more general responsibility for the expenditure of money, would be obtained by including in proper appropriation bills, specific appropriations for specific objects. Every member who is held responsible for public expenditures should have the right of assent or dissent upon every item of appropriation, as it regards the amount paid, the party to whom paid, and the source from whence drawn. An immediate and general responsibility thus obtained, will give protection to the representative, and security to the public.

Upon such principles of action I think it possible that the session may be brought to a close in sixty days, and all the public business deliberately considered. So far as I have been able to examine the subject in the brief interval that has elapsed between one period of public service and another, I am of opinion that there may be effected, with liberal regard

to the public service, a retrenchment in expenditures of nearly three hundred thousand dollars, as compared with the expenses of last year; and this with a change in the manner of defraying the expenses of one branch of service to which I shall call your attention, will reduce the deficit which appears to exist upon comparing the current receipts with the current expenditures, upon the basis of last year, from the sum of \$640,000 to the sum of \$267,000. And if to this deficit of \$267,000 can be applied the balance of \$191,000 remaining after payment of the temporary loan referred to, it will reduce the amount to \$66,000, to be met and paid by a State tax equal to that sum. Any conclusion of your labors that approaches to such a result will probably be received with public favor.

A chief cause of excessive legislation, which is one of the evils of our times, is the idea that legislative renown is to be obtained only by personal identification with the success of new measures. Nothing can be farther from the truth, and no idea more pernicious in its effects. The highest legislative honors can be won only by patient labor, and it rarely occurs that important reforms originate in other sources of wisdom or power. Unsettled legislation and unsettled governments are among the calamities that befall men.

The Report of the Adjutant-General shows the Militia to be in its usual excellent condition. There are enrolled in active service, in the militia of the Commonwealth 6,349 men. The cost of this branch of service for the past year has been \$70,000. Apart from the necessity of public defence by citizen soldiers in time of war, there are many services rendered to the State by an organized militia, not readily obtained by other agencies. A military company in a town or city furnishes a disciplined body of men, who can be rallied at immediate notice in support of legal authorities, for suppression of disturbances of public peace, and for the protection of property in case of conflagration or other public calamity. The school of the soldier is not unimportant as a means of physical education. Public approval of this service may be manifested, as well by judicious reforms as in liberal encouragement. Ostentatious and costly parades are doubtless too often substituted for the severe duties and discipline of the soldier, and contribute somewhat to the extravagance in which originates much of the prejudice against the system. A slight reduction in the number of troops, held in actual service, would sensibly diminish its expense, and allow the employment of a thor-

oughly competent military instructor, exclusively devoted to the discipline of troops in manual exercise and in field service.

There is some injustice in the apportionment of the public charge for the support of the militia. It is organized for the protection of life, liberty and property. Every person in the Commonwealth participates in all advantages that arise from it, while the burden of its support is thrown upon property alone. Military service is not compulsory, and but a small part of enrolled citizens enter upon active duty. Of 151,114 men enrolled for duty under the statute, less than 7,000 men are in active service.

The physical burdens of the system fall, therefore, upon comparatively few persons, and the charges of the service are defrayed by heavy assessments upon the property of the State, while the great majority of citizens, who are liable to be called into service, contribute but little in either respect, to its maintenance. In several of the States, the charge for the support of the active militia is assessed upon citizens who are enrolled, but relieved from active duty. A very small tax of this character in commutation of actual service, would relieve the property tax of the Commonwealth entirely of this charge. I recommend this subject to your attentive consideration. It may be expedient also to consider how far citizens, not now enrolled, may be made subject, without injustice, to this tax levied in lieu of personal service, and if it should be found that the enrolment could be materially enlarged, some further legislation may be necessary in reference to those from whom other public duty is required, as in the case of firemen, whose service is alike perilous and important.

The constitution declares that a frequent recurrence to its fundamental principles is absolutely necessary to preserve the advantages of liberty and to maintain a free government. I respectfully suggest to the legislature and to the people of the Commonwealth, the inquiry, whether the spirit of this declaration may not be fully maintained without the election, each year, of every officer connected with the legislative and executive branches of the government. The choice of a part each year would afford the same annual appeal to the people, give greater stability to public opinion, and furnish a guarantee for the security of political rights, and a wise management of public property. There are but six States in the Union besides our own, and out of New England, but one, in which the officers of the executive and legislative departments are all chosen annually.

Recent financial disasters will naturally call your attention to the Currency. The banking capital of the Commonwealth is \$60,319,720. The number of banking institutions is one hundred and seventy-three. It appears by the Bank Commissioners' Report for the present year that the aggregate circulation of bank notes, is \$18,104,827, and the aggregate amount of specie, \$3,611,097, which is equivalent to one dollar in specie for every five dollars in paper. However opinion may have been divided, there must now be a general concurrence in the conclusion, that any increase in their number or capital is inexpedient. The financial difficulties which disturb all industrial pursuits, cannot justly be charged to paper circulation alone. Different causes operating through a period of years, have contributed to the result. Extravagant estimates of the wealth and wants of the country have led to enterprises, in which credit has been overstrained, until prostration and paralysis have ensued. It cannot however be doubted that bank credits have contributed to the extension and the revulsion of trade: some charging the result to an expansion, and others to a sudden and unjustifiable contraction of banking accommodations. Both parties are justified in their conclusions. Sudden contractions have precipitated difficulties that originated in undue expansions. It is impossible to separate the expansive from the contracting properties of a paper currency. At the moment when it passes the point which attends and facilitates healthy trade, it is subject to a single and immutable law, expanding when it should contract and contracting when it should expand. As it increases in quantity, its standard depreciates in value. It stimulates an unsafe competition in all industrial pursuits, and by an inflation of prices, deprives the American manufacturer of every advantage to be derived from a tariff incidentally protective, because the foreign manufacturer is enabled to pay our duties, and still sell his goods here at higher prices than in the home market, which are in turn to be paid for in exports of gold and silver.

Debts contracted in an inflated currency must be paid in a period of contraction in one of far higher values. Excessive issues of paper money expel the precious metals from ordinary circulation, and make the redemption of bills, in specie, upon which theory alone they are issued, impracticable, if not impossible.

It is not possible to restrict credit altogether, if it were desirable. The American people have far less business capital, and far greater business capacity than other nations.

The difference between their business capital and their business capacity must be supplied, as far as safety will allow, by intervention of credit; and thus American industry escapes mere physical drudgery, and seeks enterprises in which intellectual and physical power are advantageously combined. Such reforms as would afford the largest credit compatible with public security would be readily conceded, if it were possible to agree upon measures certain to produce such result. It is by some regarded as sufficient that banks should be required to keep a certain amount of gold and silver proportioned to their circulation, as one dollar in specie to three in paper. Another remedy is the suppression of bills of small denominations.

A currency which should provide specie for ordinary transactions, as in payment of wages, and notes of larger denominations for commercial purposes, supported by a liberal specie basis, and convertible at any moment into specie, would be convenient and safe.

I recommend that you consider the expediency of suppressing the circulation within the State of notes of the denomination of five dollars and less sums. Such legislation would infuse into the circulating medium of the State a larger proportion of gold and silver. It is estimated that the amount in circulation in the United States, in the form of bills of five dollars and less sums, is nearly fifty million dollars. So far as the character of the circulation is returned in the several States, it appears that about nineteen per centum of bank circulation is in bills of less value than five dollars. The same proportion for the aggregate circulation would be about forty million dollars, and bills of the denomination of five dollars added thereto would equal the estimate stated.

The substitution of this amount of gold and silver in small sums for use in ordinary business transactions, instead of paper money to the same extent, would confer a lasting benefit.

Gradually applied, first to bills less than five dollars, and in a period of three or five years, to bills of the denominations of five and ten dollars, the change would not injuriously affect any interest. The supply of coin in the country is abundantly sufficient. It is now not much less than two hundred and seventy million dollars. Instead of serving as a measure of value merely, gold is now a staple product, and in the next decennial period the coin of this country will equal that of England or France.

It will be said that suspensions have occurred in States

where small notes are prohibited. It is undoubtedly true ; but the same facts which support the assertion would show that real estate had no value, because it could command no purchaser.

Those engaged in business, stimulated by action and enterprise, may forget the recent revulsion ; but the people, deprived of employment, and suffering the loss of their small accumulations, will make its history a family tradition, and if the States fail to make judicious reforms, other and sweeping changes will be sought elsewhere.

I do not think considerations of present favor will justify an entire neglect of this subject. The saddest legacy which legislation can leave is that which contributes in any considerable degree to periodical financial revulsions, which strike down alike the independence of industry and the dignity of affluence, and destroy private and public confidence and character.

The Public Schools are represented to be in prosperous condition. The aggregate expenses, exclusive of buildings, for educational purposes, amount to \$1,410,989. All expenses included, about twelve dollars is paid for each pupil. The number of children between five and fifteen years in the State, is 221,478. Of this number 203,031 have been in attendance upon the schools.

The importance of our system of education is shown in the fact that one-fifth of our entire population is of that age, marked by statute, as the proper period for receiving elementary instruction. It is impossible to overstate the demands which it makes upon our attention, and it has contributed as much as any other to the moral and material prosperity of the Commonwealth. Being, in virtue of the office I hold, officially connected with this important interest, I cherish the hope that I shall be able during the current year to give it personal attention.

The beneficent Public Charities are in condition of flattering prosperity. Institutions for instruction of the blind, the deaf and dumb, of idiotic and feeble-minded persons ; asylums for the insane, and industrial schools for boys and girls, are not only for purposes of individual relief, but of security to the public, and of solace to those in full mental and physical vigor. Such interesting and surprising results have been obtained in their treatment, as indicate the possibility of attaining through educational influences a success that approaches almost creative power.

Within a few years a new system for the support of paupers has been adopted. However opinion may have been

divided up to this time, the events of the past year may so far change its results as to lead us still to regard it as an experiment. The expense of supporting the four almshouses for the last year is \$166,000. It is manifest that present accommodations are insufficient for the wants of the future; but I hesitate to advise further investments in this charity until the success of the principle is fully established. And in the mean time I recommend a vigorous and searching examination of the whole system, both upon economic and philanthropic grounds.

The commissioners appointed for the revision of the statutes, have nearly completed their labors, and will be ready to make their report in printed form in July next.

The constitution of the United States confers upon congress the power to invest persons with the attributes of citizenship, but it leaves to each State the right to determine what persons shall become voters. Recent constitutional amendments and legislative opinions repeatedly expressed, which have not yet ripened into statutory or constitutional enactments, indicate that the qualifications of voters is a subject of deep and general interest. There can be no object of higher importance than that of determining upon what conditions the right of suffrage shall be conferred, and what legislative safeguards are necessary to maintain the purity of elections and to protect the rights of American citizens. I shall cheerfully concur with you in such measures as you may judge expedient for this purpose.

The recent sad history of Kansas challenges our attention. The repeal of the Missouri Compromise in 1854, and the creation of territorial governments, opened to settlement a country occupied chiefly by Indians, and in which slavery had been prohibited by southern men as a condition of the admission of Missouri. The repeal was effected under the pretext of establishing the right of self-government, which is now for the first time denied, and the calamities that have occurred since, have resulted from that act of ineffable wrong.

At the first election in Kansas, an invasion was made by armed men, who usurped the legislative power. It is shown by unimpeachable testimony, that of 6,218 votes given in 1855, there were 4,908 given by men not citizens or residents. The governor of the territory denounced the invasion and the fraud, and refused certificates of election. He was removed, and the first act of his successor was to acknowledge the validity of the election and to declare his intention to enforce the laws of the legislature, admitted to be uncon-

stitutional and barbarous. The people thus deprived of their rights, assembled by delegates at Topeka, formed a State constitution, and petitioned for admission into the Union. This action, though irregular, was not without precedent; but neither the government of the United States, nor the parties invading, who had deprived them of their rights, could upon any just ground take advantage of their own wrong, to defeat this first act of the people, upon pretext of irregularity. The constitution failed to obtain the assent of the senate, and the State was not admitted. The violence and crime that have since ravaged the territory under the legislature which denied to the people the right of electing local or county officers, are well known.

During the past year another constitution has been formed at Lecompton. The convention did not represent the people, nor were its delegates elected by them. It has been officially reported to the president by the late governor of the territory, that "the delegates who signed the constitution represented scarcely one-tenth of the people;" that "nearly one-half of the counties of the territory were disfranchised, and, by no fault of theirs, did not and could not give a single vote in the election for delegates." The convention refused to submit to the people the constitution, which recognizes slavery, for an affirmative or negative vote. With an additional pro-slavery clause, adopted by the parties who made the constitution, it is now sent to Congress, and your senators and representatives are called upon to vote upon the admission of the State under that constitution.

It is not now a question of slavery alone, but to that is superadded the question of the right of the people to vote either in election of delegates, or upon the constitution itself. Many citizens have sustained the government in its Kansas policy upon its solemn pledges that the constitution should be submitted to the people. To sustain now, the denial of this right, is to repel in the most decisive manner the doctrine of popular sovereignty.

Nothing but the direct intervention of federal influence can force through congress the Lecompton constitution; and if the government, with the sanction of the people, can force upon Kansas a constitution conceived in fraud and violence, it will be the weightiest blow ever given against free governments.

Violence and fraud, if successful in this instance, will be repeated whenever occasion demands it. It will not be limited to territories or states. No shrine will be held sacred. The senate chamber of the United States has been

already invaded, and this State was for a time bereft of a part of its representative power by an act of fearful wrong, committed upon the most cherished and brilliant of her sons, while in the performance of constitutional duty.

To escape difficulties that surround this subject, the Supreme Court of the United States, upon a question as to the extent of its own jurisdiction, has assumed authority to pass judgment upon the political powers of congress and the people, in regard to the government of territories, and to declare the Compromise Act of 1820 unconstitutional. A power expressly given to congress by the constitution, exercised for seventy years, with approval of every department of the government, and with assent of nearly every American statesman; a power inserted in the constitution, as there is historical reason to believe, because the congress of the confederation had been compelled to exercise a similar power, confessedly without authority, and to which assumption congress under the constitution, by statute, gave validity and effect, is denied to congress and the people, in a case over which, upon the determination of the court itself, it had no jurisdiction whatever.

We are not left in doubt as to the reason of this extraordinary conclusion. It was said by one of the learned judges, that the case involved constitutional principles "about which there had become such a difference of opinion that the peace and harmony of the country required the settlement of them by judicial decision." It is hardly to be expected that a free people can dispose of their great interests without an occasional difference of opinion. It has not been held, however, that such conflicts invested the courts with authority to limit the political powers of congress or of the people. Chief Justice Marshall held otherwise:—"By extending the judicial power to all cases in law and equity," he says, "the constitution had never been understood to confer on that department any political power whatever. To come within this description a question must assume a legal form for forensic litigation and judicial decision. There must be parties to come into court who can be reached by its process and bound by its power; whose rights admit of ultimate decision by a tribunal to which they are bound to submit."

The late decision, pronounced without just authority and confessedly without jurisdiction, would excite less alarm were it not that the same tribunal, which, as interpreted by the president, has declared that slavery exists in Kansas "under the constitution of the United States," may divest

the States, and among others, our own, of cherished prerogatives, and assume the right to determine how far slavery, irrespective of the will of the people, may exist in the States. The preservation of the Union is among the highest of political duties. The vitality of the Union is in the recognition of the rights of the States. The affirmation of their existence may become the surest means of perpetuating the Union itself. There are privileges that are worth a contest. Such, at least, has been the immortal example of immortal men.

Senators and Representatives :

I approach the duties of my office with deep solicitude. I rely with confidence upon your wisdom and patriotism, and it will afford to me the highest gratification to be able to concur with you in all measures intended to advance the interests of the Commonwealth.

SPECIAL MESSAGES.

THE FOLLOWING SPECIAL COMMUNICATIONS WERE MADE BY HIS EXCELLENCY THE GOVERNOR, TO THE LEGISLATURE, DURING THE SESSION ENDING MARCH TWENTY-SEVENTH.

[To the Senate, January 11.]

I transmit herewith for the use of the legislature, certain resolutions passed by the general assembly of the State of Connecticut, in relation to the decision of the supreme court of the United States, in the case of Dred Scott, and also in relation to the people in the Territory of Kansas in their struggles against the aggressions of slavery.

[To the House of Representatives, January 25.]

I have the honor to transmit to the house of representatives, in answer to an inquiry made on the 11th instant, a communication from the treasurer of the Commonwealth, showing the amount expended under the resolve approved May 19, 1857, upon the petition of Levi Baker and others, and also a communication from the attorney-general of the Commonwealth upon the same subject.

[To the House of Representatives, February 11.]

I have the honor to transmit a report of the commissioners on Boston Harbor, with a manuscript chart, and copies of an engraved chart of the harbor, for the use of the legislature.

[To the House of Representatives, February 16.]

I have the honor to transmit, for the use of the legislature, a communication from Charles L. Woodbury, esq., attorney for the United States, requesting that jurisdiction over a tract of land in the vicinity of Minot's ledge lighthouse, may be ceded by this State to the United States.

I have the honor also to communicate a statement made by the attorney-general, in relation to the default of insurance agents, in making the returns required by statutes of this Commonwealth.

[To the House of Representatives, February 17.]

I have the honor to inform the legislature that a vacancy exists in the office of major-general of the first division of the volunteer militia, occasioned by the honorable discharge of major-general B. F. Edmands.

[To the House of Representatives, February 19.]

In compliance with an order of the house of representatives of the 16th inst., I have the honor to transmit a communication from the treasurer of the Commonwealth, with copies of such papers, specifications and detailed estimates as are on the files of the executive department, relating to the cost of completing the hospital for the insane, in Western Massachusetts.

[To the House of Representatives, February 23.]

I have the honor to transmit to the house of representatives, for the use of the legislature, the twenty-first annual report of the board of education.

[To the House of Representatives, March 9.]

The honorable Albert H. Nelson has transmitted to this department of the government, his resignation of the office of chief justice of the superior court of the county of Suffolk.

Until a very recent period his friends had entertained confident expectations that partially restored health would have permitted him to resume his official labors. I regret that it has proved otherwise.

The salaries of the justices of the superior court, are paid from the treasury of the city of Boston, but the payments are regulated by the statute which establishes the court. In view of the circumstances which attend this resignation, and in the belief that such action would not be without precedent, I have thought it not improper to suggest to the legislature, the expediency of providing by legislative enactment, for the continuance of the present salary of chief justice Nelson, to such period of time, as will attest public appreciation of the rectitude of purpose, and eminent ability which have distinguished his judicial career.

[To the Senate and House of Representatives, March 19.]

An address of both houses of the legislature was presented to me yesterday, by a committee appointed for that purpose, requesting the removal of Edward Greeley Loring from the office of judge of probate for the county of Suffolk. The

reasons which moved the legislature to this request are not stated in the address. The power given to the executive department of the government, upon address of both houses of the legislature for the removal of notaries public, officers commissioned to command in the militia, and all judicial officers, is a power given without qualification, and its exercise is intrusted solely to the discretion of the legislative and executive branches of the government. But inasmuch as other constitutional modes of procedure have been established, to which recourse may be had, in cases of misconduct or maladministration in office, and which admit of more extended opportunities of justification and defence, I am led to the conclusion that the legislature has had regard, in this case, to the incompatibility of offices held by the judge of probate for the county of Suffolk, whose removal from office is requested. The expediency of providing, by constitutional and legislative enactments, that certain offices of State governments shall be held incompatible with other and similar offices under the government of the United States, is supported by the example of our own, as it is by that of other States.

The legislature of this Commonwealth, by an act passed on the 21st day of May, 1855, has ordained and declared, that certain offices under the government of the United States are incompatible with offices of honor, emolument and trust in this Commonwealth. Under that act, and especially under the 13th section of the act, it must be conceded that the office of judge of probate is incompatible, except for a limited term, with the office of United States Commissioner, under the acts of congress "respecting fugitives from justice and persons escaping from the service of their masters." It is not material that the incompatibility of offices may have been declared subsequent to the creation of the court, or the appointment of the incumbent officer. It is well established by legislative precedents, that a court which is created by legislative authority, may be changed at the will of the legislature, both as it regards its jurisdiction and its officers. So far as the statute of 1855, chapter 489, affects the judge who is made the subject of the address, it is simply to declare, that a judicial officer of this Commonwealth shall not hold the office of United States Commissioner, which has been decided by the courts of this State, and of the United States, to be in the nature of a judicial office. I entertain no doubt of the power of the legislature to establish this incompatibility of public employments; and to this extent, at least, I consider its exercise eminently wise and just.

It is neither for the interest of the people of the United States, nor of this Commonwealth, that any person should be invested, at the same time, with judicial authority under Federal and State governments.

This principle of incompatibility of offices, is fully recognized by the constitution, and in legislative acts of this Commonwealth, and having been embodied in the act of 1855, to which I have referred, the people of the State have thought it proper that it should be observed. The judge of probate for the county of Suffolk, entertaining a different view of his rights and his duties to the government and people, has neglected to comply with the provisions of the statute. Different legislatures have, by address to the executive branch of the government, requested his removal from an office which he thus held in contravention of law; but, without signal effort for its modification or repeal, as often as the legislature has requested his removal, he has reasserted his purpose and position, conscientiously I have no doubt, in language which I cannot interpret otherwise than as manifesting a fixed resolution to disregard and in effect to nullify a statute provision of the Commonwealth. For this reason—no official opinion of his entering into my consideration of the question, and no official act constituting an element in the judgment I have formed—upon address of both houses of the legislature constitutionally presented, and with consent of the council, I have removed Edward Greeley Loring from the office of judge of probate, for the county of Suffolk.

My attention having been thus called by the legislature to the statute of the 21st of May, 1855, I should fail in my duty did I not request the reconsideration of some of its provisions, with a view to their material modification and amendment.

Under a government so entirely free as our own, there is sometimes danger that in moments of excitement a desire for the protection of personal rights may incite us to forgetfulness, and even disregard of other rights of citizens and the State. The judgment of every man must compel him, theoretically at least, to acknowledge the superiority of political institutions which spring from and represent the people, over every other form of government; but it is quite possible that in practice considerate men may be led to distrust the ultimate success, and discredit the justice of such governments, because of their natural tendency to the disregard of equally important rights of different classes of men.

In a statute which is professedly framed to secure the rights of persons, especial care should be taken that no limitations of power should be permanently established which are not essential to the great purpose of the act itself. To all provisions of the act of the 21st of May, 1855, which are essential to the protection of the rights and liberties of the people of Massachusetts, under the constitution of the Commonwealth and that of the United States, I cheerfully give my assent.

In my judgment it is not only expedient but necessary for the government of the United States, as well as of the separate States, that in practice and by legislation it should be held incompetent for the same person, at the same time, to exercise judicial authority under both Federal and State governments. The delicate lines of power that mark the separation of State and Federal jurisdiction, absolutely demand that the judicial functions of the two governments should not be represented in the same officer. To so much of the statute of 1855 as makes it incompatible for a judicial officer of the Commonwealth to hold a judicial office under the government of the United States, or that of United States Commissioner, I think no well-founded objection can be taken; but I do not think it necessary that this incompatibility of employments should be extended to officers whose duties are chiefly ministerial, rather than judicial, as justices of the peace; or to attorneys at law, to officers of the militia, or to various other persons, who may be said, in the language of the act, to hold offices "of honor, trust or emolument under the laws of this Commonwealth." No incapacity to hold office, and no disqualification to receive appointment, should be pronounced against any citizen, except upon grounds of public necessity.

Such necessity does not exist, in my judgment, with regard to the officers last named; neither will the exercise of the power avail any thing whatever against the legislative, executive or judicial authority of the United States.

If it be the purpose of this Commonwealth to impress upon individuals or States its opinions, its object should be not to restrict, but to enlarge the legal capacity and power of its people. It cannot be assumed, upon any just principle, that every citizen of Massachusetts who shall hold the office of United States Commissioner will feel bound, because he is in sympathy with its sentiments, or possesses the confidence of its people, harshly to adjudge every fact against the personal liberty of every suppliant for justice, or to interpret the provisions of every act of the general govern-

ment as within its constitutional power. It cannot justly be assumed, without proof, that the protection of the rights of any fugitive or stranger requires that a disqualification for holding office shall be pronounced against all those who sympathize with and possess the confidence of the people of this State, or that every semblance or symbol of authority shall be pressed by our own act into the hands of those who sympathize neither with the fugitive nor the State; still less is it to be assumed that there can never be a change in the administration of the general government, or in the construction of its statutes.

The constitution of the Commonwealth confers upon the governor, with consent of the council, upon address of both houses of the legislature, authority to remove certain civil and military officers. Through all amendments of the organic law, this provision has remained without limitation or change, and enables the people to carry into full and immediate effect, against any officer of the government, that provision of the Bill of Rights which declares that "in order to prevent those who are vested with authority from becoming oppressors, the people have a right at such periods and in such manner as they shall establish by their frame of government to cause their public officers to return to private life." In different sections of the act of 1855, chapter 489, there is an attempt to set forth reasons or facts which will justify succeeding legislatures in impeachment of public officers, or their removal by address. It is manifest that no legislature can enlarge or restrict the power of removal or impeachment which the constitution refers solely to the discretion of each succeeding government. I suggest the inquiry if such provisions of this act should not be repealed.

The eleventh section of the same statute provides that any person who shall "act as counsel or attorney for any claimant of any alleged fugitive from service or labor, shall be deemed to have resigned any commission from the Commonwealth that he may possess, and he shall thereafter be incapacitated from appearing as counsel or attorney in the courts of this Commonwealth." It appears to me, that this provision indicates a distrust, on the part of the people, not only of the courts, but also of the legal profession, which has no sufficient foundation, and that it is inconsistent with the dignity, as it is with the professional traditions of the State with which, in this connection, the illustrious names of Adams and Quincy are inseparably associated.

The constitution provides that the governor of the Commonwealth for the time being shall be commander-in-chief of the army and navy, and of all the military forces of the State, by sea and land; and the statute gives to the governor and also to other military and civil officers authority to call out the militia, in cases of war, insurrection, tumults or mobs. Every subordinate officer and private is required to obey orders thus issued, under penalty of being cashiered or subjected to other punishment by fine and imprisonment. The act of 1855, chapter 489, section 16, declares, that any member of the volunteer militia, who shall act in any manner, in the seizure, detention or rendition of any person for the reason that he is claimed as a fugitive from service or labor, "shall be punished by a fine of not less than one thousand and not exceeding two thousand dollars, and by imprisonment in the State prison for not less than one nor more than two years."

There is in these different provisions of the constitution and laws a divided duty, which it is impossible for the subordinate officer and soldier to recognize and perform. Every order issued from this department of the government to the military forces of the State, must be obeyed. I recommend, therefore, that the statute be so amended, as to relieve subordinate officers and privates of the volunteer militia from the heavy penalties to which they are subjected by the provisions of the sixteenth section, and that such legislation as shall be deemed necessary for the public welfare in this regard, shall be made effective, by limiting the power of military and civil officers, in calling out the militia in cases of invasion, insurrection or popular tumult, or in such other cases as the legislature may deem expedient.

I present these considerations upon this important subject with great deference, and respectfully request thereto such attention as the advanced state of public business will permit.

CHANGE OF NAMES.

SECRETARY'S OFFICE, BOSTON, }
May, 1858. }

By the 256th chapter of the Acts of 1851, entitled "An Act to provide for the Change of Names of Persons," it is provided that "the judges of probate for the several counties shall annually, in the month of December, make a return to the office of the secretary of the Commonwealth, of all changes of names made under and by virtue of this act, and such returns shall be published in a tabular form, with the statutes of each year." The following returns have been received at this department in accordance with said act.

SUFFOLK COUNTY.

Charles C. Amory, takes the name of Charles Amory.
George Barnard, takes the name of George B. Oliver.
Chester G. Brown, takes the name of Gilbert C. Brown.
Mary Biggins, takes the name of Martha Ella Teear.
Richmond Doyne, takes the name of Charles R. Doane.
John Dean, takes the name of John Ward Dean.
Elizabeth Doherty, takes the name of Elizabeth Ulmar.
Mary M. Donovan, takes the name of Jenny Brown.
Phebe Ann Eldredge, takes the name of Anna Eldredge.
William Henry Gray, takes the name of William Wallis
Jenkins.
Mary E. Haden, takes the name of Eliza Frances French.
Manoah Meade Livingston, takes the name of Montgomery
Meade Livingston.
James O'Connor, takes the name of James Connor.
Ernest H. Ruggles, takes the name of George Washington
Farr.

Mary E. Skelsey, takes the name of Albertina Renocia Gardner.

Mary J. Salisbury, takes the name of Mary Jane Felton.

Mary Sonnenberg, takes the name of Hannah Marilla Belcher.

Charles Sawyer, takes the name of Charles Alfred Sawyer.

Jessie Turner, takes the name of Elizabeth Piercy.

Eva Louisa Thomas, takes the name of Ella Louisa Fullerton.

Ellen Worthen, takes the name of Ellen Turel Jackson.

Henry Augustus Whitney, takes the name of Henry Austin Whitney.

Eliphalet G. Williams, takes the name of Edward Gordon Williams.

Almira E. Watson, takes the name of Elizabeth Watson Cheney.

Howard A. Watson, takes the name of Howard Clifton Watson.

Decreed by Edward G. Loring, Judge of Probate for the County of Suffolk.

ESSEX COUNTY.

May 5, 1857. Martha Rafferty, of Salem, widow, takes the name of Martha Rogers; and each of her five children, who are minors, also take the name of Rogers. John Torr, 2d, of South Danvers, takes the name of John Stevens Torr.

June 9. Sarah Jane Frink, of Haverhill, spinster, takes the name of Sarah Jane Bentley.

September 1. William Tarbox, of Lynn, carpenter, takes the name of William Wallingford; his wife and two children also take the name of Wallingford.

December 1. Joseph Henry Chandler, of Andover, takes the name of Joseph Chandler, junior.

Decreed by Nathaniel S. Howe, Judge of Probate for the County of Essex.

MIDDLESEX COUNTY.

January 13, 1857. William F. McNeill and wife, of Lowell, adopt Ellar F. Atkinson, a minor, and said Ellar takes the name of Frances A. McNeill. Willard F. Morse

and wife, of Hopkinton, adopt Charles Edwin Morrison, a minor, and said Charles takes the name of Miles Morse. Abner Thurston Linnikin, of Malden, takes the name of Abner Thurston Linnikin Weston; and his wife and son also take the name of Weston.

February 17. Rebecca Kilby Eaton, of Cambridge, takes the name of Rebecca Eaton Parker, and Sarah Ann Eaton of ditto takes the name of Sarah Ann Eaton Parker.

March 3. Francis Gregory and wife, of Waltham, adopt Emma J. Durant, a minor, and said Emma takes the name of Emma Frances Gregory. Joseph Stevens and wife, of Lowell, adopt Lizzie Ann Fay, a minor, and said Lizzie takes the name of Lizzie Ann Stevens.

May 19. Edward Hall and wife, of Concord, adopt Mary Frances Willett, a minor, and said Mary takes the name of Mary Frances Hall.

June 3. Stephen Hine and wife, of Woburn, adopt Catherine Floyd Clifton, a minor, and said Catherine takes the name of Ellen Elizabeth Hine.

June 30. Chauncey C. Leland and wife, of Natick, adopt Zipporah Belcher, a minor, and said Zipporah takes the name of Martha Eugenie Leland.

August 11. Alden S. Francis and wife, of Marlborough, adopt Michael Gorman, a minor, and said Michael takes the name of Charles Francis.

September 1. Michael Kavanagh, of Lowell, takes the name of Edward Kavanagh.

September 8. John Smith and wife, of Cambridge, adopt Mary Jane Moore, a minor, and said Mary takes the name of Mary Jane Smith.

September 22. William P. Homer and wife, of Cambridge, adopt Annie Hall, a minor, and said Annie takes the name of Nellie Homer.

October 13. Stephen Smith and wife, of Somerville, adopt Oliver Clough Moore, a minor, and said Oliver takes the name of Oliver Clough Moore Smith. William G. Flanders and wife, of Lowell, adopt Lizzie Whitten, a minor, and said Lizzie takes the name of Emma Whitten Flanders.

October 27. William E. Robbins and wife, of Holliston, adopt Benjamin Gallighan, a minor, and said Benjamin takes the name of Willie Fletcher Robbins. Stephen J. Phinney and wife, of Melrose, adopt Delia Maria Starrott, a minor, and said Delia takes the name of Emma Maria Phinney. Ellis Ware and wife, of Sherborn, adopt Emma Althea

Daniels, a minor, and said Emma takes the name of Emma Daniels Ware.

November 10. Mary Gallagher, of Waltham, takes the name of Mary E. Walcott.

Decreed by William A. Richardson, Judge of Probate for the County of Middlesex.

WORCESTER COUNTY.

January 6, 1857. Joseph Whitney, Jr. and wife, adopt Charles E. Jones, a minor, and said Charles takes the name of Charles E. Whitney.

February 3. Emory Banister and wife adopt Adaline Augusta White, and said Adaline takes the name of Emma Banister.

March 3. Mary Louisa Flint, of Southborough, takes the name of Julia Daniels Flint.

May 20. Lovell A. Lesure and wife, of West Boylston, adopt Herbert Stearns White, and said Herbert takes the name of Herbert Stearns Lesure.

June 2. Martha Rogers, of West Brookfield, takes the name of Martha Bachelor Edwards.

July 7. Jonathan Austin Davis, of Oxford, takes the name of Austin Davis. Timothy Ide Nicholas, of Milford, takes the name of Timothy N. Ide.

August 4. George W. Bliss and wife, adopt a child of Lucretia S. Pond, and said child takes the name of Charles Wallace Bliss. Leander Gale and wife, of Millbury, adopt Frances Ada Havenstock, a minor, and said Frances takes the name of Ada Isabella Gale.

September 29. Henry G. Fairbanks and wife, of Westborough, adopt William B. Chesmore, a minor, and said William takes the name of Herbert Gay Fairbanks.

October 6. Emily Jane Farwell, of Fitchburg, a minor, takes the name of Emily Jane Upton.

Decreed by Thomas Kinnicutt, Judge of Probate for the County of Worcester.

HAMPSHIRE COUNTY.

February 3, 1857. William Wilcomb Bennett, of Belchertown, takes the name of William Bell.

April 7. James Field, Jr. and wife, of Northampton,

adopt Joseph P. Walker, a minor, and said Joseph takes the name of Joseph Walker Field.

July 7. Sophronia Smith Cummings, of Ware, takes the name of Sophronia Granger Cummings.

October 6. Edwin Patten, of Williamsburg, adopt Louisa J. Nichols, a minor, and said Louisa takes the name of Louisa J. Patten.

Decreed by Ithamar Conkey, Judge of Probate for the County of Hampshire.

HAMPDEN COUNTY.

February 3, 1857. John H. Smith, takes the name of William J. Burt.

November 24. Sarah Bond, takes the name of Emely Clark.

Decreed by Charles R. Ladd, Judge of Probate for the County of Hampden.

FRANKLIN COUNTY.

February 10, 1857. Mary E. Warner, of Colrain, takes the name of Mary Elizabeth Churchill.

March 10. Alma Seaver, of Gill, takes the name of Alma Clap. Abby Seaver, of Gill, takes the name of Abby Clap.

October 13. Fanny M. Stimpson, of Northfield, takes the name of Ida Streeter. Caroline Hibbard, of Greenfield, takes the name of Caroline Wunsch.

December 15. Marriam Sophia Belden, of Whately, takes the name of Marriam Sophia Nash.

Decreed by Franklin Ripley, Judge of Probate for the County of Franklin.

BERKSHIRE COUNTY.

April 7, 1857. Nancy E. Lane, takes the name of Cynthia E. Davis.

April 29. Lovaine Patridge, takes the name of Leonard Lovaine Ryder.

Decreed by Daniel N. Dewey, Judge of Probate for the County of Berkshire.

NORFOLK COUNTY.

January 17, 1857. Mary Isabella Phillips, of Dorchester, a minor, takes the name of Mary Isabella Sumner.

May 30. George Luther Clapp, of Sharon, a minor, takes the name of George Fisher Gay.

June 6. Francis Edgar Packard, of Quincy, a minor, takes the name of Frank Edgar Packard.

August 11. Lewis A. Packard, of Quincy, a minor, takes the name of Elisha Packard.

August 15. Sarah Dorr, of Canton, a minor, takes the name of Grace Ada Howard.

Decreed by William S. Leland, Judge of Probate for the County of Norfolk.

PLYMOUTH COUNTY.

January 12, 1858. Edward Chamberlain and wife, of Abington, adopt Josephine Corbett, of Boston, and said Josephine takes the name of Flora Webster Chamberlain.

May 18. Helen M. Muirhead, of Kingston, takes the name of Helen M. Gray.

July 7. William Henry Cowenskiff, of Rochester, takes the name of William Henry Cowen.

August 4. Henry Alden Humphrey, of Bridgewater, takes the name of Henry Peirce Alden.

August 10. John B. Hatch and wife, of Middleborough, adopt Ann Goodell, of Carver, and said Ann takes the name of Ann Goodell Hatch. William W. Holmes and wife, of Duxbury, adopt Edward Wadsworth and said Edward takes the name of William W. Holmes.

Decreed by Aaron Hobart, Judge of Probate for the County of Plymouth.

BARNSTABLE COUNTY.

May 14, 1857. Eliza B. Drody, of Barnstable, takes the name of Eliza B. Crowell, and George C. Drody, her minor son, takes the name of George Crowell.

May 19. Mary Allen Knowles, of Yarmouth, takes the name of Mary Rowe Knowles.

June 16. Joseph Cobb and wife, of Barnstable, adopt Mary Green, a minor, and said Mary takes the name of Alice Josephine Cobb.

December 14. Joshua Francis Small, of Provincetown, a minor, takes the name of Daniel Francis Small.

Decreed by George Marston, Judge of Probate for the County of Barnstable.

No application for change of names has been made to the Judges of Probate for the Counties of Bristol, Dukes and Nantucket, during the year 1857.

MEMBERS OF THE THIRTY-FIFTH CONGRESS.

SENATORS.

CHARLES SUMNER, *of Boston.*

HENRY WILSON, *of Natick.*

REPRESENTATIVES.

District I.—ROBERT B. HALL, *of Plymouth.*

II.—JAMES BUFFINGTON, *of Fall River.*

III.—WILLIAM S. DAMRELL, *of Dedham.*

IV.—LINUS B. COMINS, *of Roxbury.*

V.—ANSON BURLINGAME, *of Cambridge.*

VI.—TIMOTHY DAVIS, *of Gloucester.*

VII.—DANIEL W. GOOCH,* *of Melrose.*

VIII.—CHAUNCEY L. KNAPP, *of Lowell.*

IX.—ELI THAYER, *of Worcester.*

X.—CALVIN C. CHAFFEE, *of Springfield.*

XI.—HENRY L. DAWES, *of Adams.*

* Elected in January, 1858, to fill vacancy caused by the resignation of Nathaniel P. Banks, governor elect.

T H E
C I V I L G O V E R N M E N T

OF THE

Commonwealth of Massachusetts,

AND OFFICERS IMMEDIATELY CONNECTED THEREWITH,

FOR THE POLITICAL YEAR, 1858.

CIVIL GOVERNMENT—1858.

HIS EXCELLENCY

NATHANIEL P. BANKS,
GOVERNOR.

HIS HONOR,

ELIPHALET TRASK,
LIEUTENANT-GOVERNOR.

COUNCIL.

CHARLES R. TRAIN,
LABAN M. WHEATON,
WILLIAM H. WOOD,
AUSTIN L. ROGERS,

EDWIN F. JENKS,
WILLIAM J. EAMES,
NEWELL A. THOMPSON,
GEORGE COGSWELL.

OLIVER WARNER,

Secretary of the Commonwealth.

CHAS. W. LOVETT, *1st Clerk.* ALBERT L. FERNALD, *2d Clerk.*

MOSES TENNEY, JR.,

Treasurer and Receiver-General of the Commonwealth.

DANIEL H. ROGERS, *1st Clerk.* JOHN H. SMITH, *2d Clerk.*

CHARLES WHITE,

Auditor of Accounts.

WILLIAM EVELETH, *Clerk.*

SAMUEL O. UPHAM,

Messenger to the Governor and Council.

GENERAL COURT,

ARRANGED IN ACCORDANCE WITH THE DISTRICT SYSTEM OF 1857, WITH THE
NAMES AND RESIDENCES OF MEMBERS.

SENATE.

President—CHARLES W. UPHAM.

District.	Name of Senator.	Residence.
First Suffolk, . . .	Edward F. Porter, . . .	Boston.
Second “ . . .	Oliver Frost, ...	“
Third “ . . .	Samuel Hooper, ...	“
Fourth “ . . .	Charles A. Phelps, ...	“
Fifth “ . . .	Francis J. Parker, ...	“
First Essex, ...	William Fabens, ...	Marblehead.
Second “	Charles W. Upham, ...	Salem.
Third “	Joseph F. Ingalls, ...	Methuen.
Fourth “	Eben F. Stone, ...	Newburyport.
Fifth “	John Prince, ...	Essex.
First Middlesex, . .	Timothy T. Sawyer, ...	Charlestown.
Second “ . . .	Gideon Haynes, ...	Waltham.
Third “ . . .	Constantine C. Esty, ...	Framingham.
Fourth “ . . .	Samuel Adams,*	Townsend.
Fifth “ . . .	James M. Usher, ...	Medford.
Sixth “ . . .	Arthur P. Bonney, ...	Lowell.

* Deceased.

District.	Name of Senator.	Residence.
Central Worcester, .	John M. Earle, ...	Worcester.
South-East " .	John G. Metcalf, ...	Mendon.
South-West " .	Oliver C. Felton, ...	Brookfield.
West " .	Charles Field, ...	Athol.
North-East " .	Goldsmith F. Bailey, . . .	Fitchburg.
East " .	Lucius S. Allen, ...	Shrewsbury.
Hampshire, ...	Horatio G. Knight, ...	Easthampton.
Franklin, ...	Hugh W. Greene, ...	Northfield.
Hampshire & Franklin,	James W. Boyden, ...	Amherst.
West Hampden, . . .	Aaron Bagg, ...	West Springfield.
East " . . .	George Walker, ...	Springfield.
North Berkshire, . .	Zenas M. Crane, ...	Dalton.
South " . . .	John Branning, ...	Lee.
North Norfolk, . . .	John N. Turner, ...	Brookline.
East " . . .	Abner Holbrook, ...	Weymouth.
West " . . .	John M. Merrick, ...	Walpole.
North Bristol, . . .	Chester I. Reed, ...	Taunton.
South " . . .	Joseph W. Cornell, ...	New Bedford.
West " . . .	Albert Bliss, ...	Pawtucket.
North Plymouth, . .	Elijah Jenkins, ...	Scituate.
South " . . .	Matthias Ellis, ...	Carver.
Middle " . . .	William T. Davis, ...	Plymouth.
Cape, ...	Charles F. Swift, ...	Yarmouth.
Island, ...	John Morissey, ...	Nantucket.

STEPHEN N. GIFFORD, *Clerk.*ARTHUR B. FULLER, *Chaplain.*BENJAMIN STEVENS, *Sergeant-at-Arms.*WILLIAM M. WISE, *Door-keeper.*JOHN A. SARGENT, *Assistant Door-keeper.*GEORGE G. BROWN, *Page.*WILLIAM R. WISE, *Page.*

HOUSE OF REPRESENTATIVES.

Speaker—JULIUS ROCKWELL.

COUNTY OF SUFFOLK.

District.	Town or Ward.	Name of Representative.	Residence.
1st,	Ward 1, Boston, .	{ William Deblois, . . . George W. Parmenter,	Boston. “
2d,	Ward 2, Boston, .	{ Cyrus Washburn, . . Amos A. Dunnels, . . Bradbury G. Prescott,	Boston. “ “
3d,	Ward 3, Boston, .	{ Peter Higgins, . . . Asa D. Pattee, . . .	Boston. “
4th,	Ward 4, Boston, .	{ William B. Spooner, . Charles Hale, . . .	Boston. “
5th,	Ward 5, Boston, .	{ Edward Sands, . . . Abraham G. Wyman,	Boston. “
6th,	Ward 6, Boston, .	{ George P. Clapp, . . . John A. Andrew, . . .	Boston. “
7th,	Ward 7, Boston, .	{ Samuel Hatch, . . . Patrick Riley, . . .	Boston. “
8th,	Ward 8, Boston, .	{ George F. Williams, . Otis Rich, ...	Boston. “
9th,	Ward 9, Boston, .	{ Franklin H. Sprague, William Beck, ...	Boston. “
10th,	Ward 10, Boston, .	{ Solomon J. Gordon, . William Makepeace, .	Boston. “
11th,	Ward 11, Boston, .	{ John Farrington, . . . Joseph F. Paul, . . .	Boston. “
12th,	Ward 12, Boston, .	{ Benjamin Lewis, . . . Thomas Leavitt, . . . Edward Young, . . .	Boston. “ “

HOUSE OF REPRESENTATIVES.

COUNTY OF SUFFOLK—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
13th,	{ Chelsea, . . . } { North Chelsea, . . . } { Winthrop, . . . }	John Bent, ... Mellen Chamberlain,	Chelsea. “

COUNTY OF ESSEX.

1st,	{ Amesbury, ... } { Salisbury, ... } { Newburyport, . . . }	Robert W. Patten, . Benjamin Evans, . .	Amesbury. Salisbury.
2d,	Andover, ...	Marcus Morton, Jr., .	Andover.
3d,	{ Beverly, ... } { Wenham, ... } { Topsfield }	Robert S. Rantoul, . Francis M. Dodge, .	Beverly. Wenham.
4th,	Danvers, ...	Francis P. Putnam, .	Danvers.
5th,	{ Essex, ... } { Manchester, . . . }	Charles Howes, . . .	Essex.
6th,	{ Georgetown, . . . }	Mark F. Edmonds, .	Georgetown.
7th,	Gloucester, ... {	Edward H. Pearce, . Fitz J. Babson, . . .	Gloucester. “
8th,	Haverhill, ... {	James H. Duncan, . Nathan S. Kimball, .	Haverhill. “
9th,	{ Ipswich, ... } { Hamilton, ... }	Joseph Ross, ...	Ipswich.
10th,	{ Wards 3 and 4, Law- } { rence, ... }	William Hardy, . . .	Lawrence.
11th,	{ Wards 1, 2, and 6, } { Lawrence, ... }	John C. Hoadley, . .	Lawrence.
12th,	Wards 2 and 5, Lynn,	John Lovejoy, . . .	Lynn.
13th,	{ Wards 1, 6, and 7, } { Lynn, ... }	Joseph W. Abbott, .	Lynn.
14th,	{ Marblehead & Ward } { 5, Salem, . . . }	Thomas D. Hamson, .	Marblehead.

COUNTY OF ESSEX—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
15th,	{ Methuen and Ward 5, Lawrence, . . . }	George W. Butters, .	Methuen.
16th,	{ Nahant and Ward 4, Lynn, ... }	George H. Chase, .	Lynn.
17th,	{ Newbury, ... West Newbury, . . Rowley, ... }	Benj. Edwards, Jr., .	West Newbury.
18th,	{ Wards 1 and 2, New- buryport, . . . }	Caleb Cushing, . .	Newburyport.
19th,	{ Wards 3, 4 & 5, New- buryport, . . . }	Richard S. Spofford, Jr.	Newburyport.
20th,	{ Bradford, ... North Andover, . . Boxford, ... }	Enoch Wood, . . .	Boxford.
21st,	Rockport, ...	William W. Marshall,	Rockport.
22d,	Wards 1 & 3, Salem,	George Andrews, . .	Salem.
23d,	{ Wards 2, 4 and 6, Salem, ... }	Stephen A. Chase, . William C. Prescott, .	Salem. “
24th,	{ Saugus, ... Lynnfield, ... Middleton, ... }	Jonathan Newhall, .	Saugus.
25th,	South Danvers, . .	Richard Smith, . .	South Danvers.
26th,	{ Swampscott, & Ward 3, Lynn, ... }	Thomas S. Bates, . .	Lynn.

COUNTY OF MIDDLESEX.

1st,	Ward 1, Charlestown,	Edward Lawrence, .	Charlestown.
2d,	{ Wards 2 & 3, Charles- town, ... }	Paul Willard, . . . Joseph Caldwell, . . Lyman Pray, . . .	Charlestown. “ “
3d,	Somerville, ...	Rollin W. Keyes, . .	Somerville.
4th,	Malden, ...	Phineas Sprague, . .	Malden.

COUNTY OF MIDDLESEX—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
5th,	Medford, ...	Oliver Hohman, . .	Medford.
6th,	{ West Cambridge, . . } { Winchester, . . . }	Moses Proctor, . . .	W. Cambridge.
7th,	Cambridge, ... {	Nathan K. Noble, . . William Page, . . . William A. Saunders,	Cambridge. " "
8th,	{ Newton, ... } { Brighton, ... }	Edward J. Collins, . Sedgwick L. Plamer,	Newton. Brighton.
9th,	{ Watertown, . . . } { Waltham, ... }	Thomas L. French, . James G. Moore, . .	Watertown. Waltham.
10th,	{ Concord, ... } { Lincoln, ... } { Weston, ... }	George M. Brooks, .	Concord.
11th,	Natick, ...	Franklin Hanchett, .	Natick.
12th,	{ Holliston, ... } { Sherborn, ... }	Lauren Leland, . .	Holliston.
13th,	{ Ashland, ... } { Hopkinton, . . . }	Albert Wood, . . .	Hopkinton.
14th,	Framingham, . . .	Josiah H. Temple, .	Framingham.
15th,	Marlborough, . . .	Leander E. Wakefield,	Marlborough.
16th,	{ Stow, ... } { Sudbury, ... } { Wayland, ... }	Benj. H. Richardson,	Sudbury.
17th,	{ Acton, ... } { Boxborough, . . . } { Littleton, ... }	Daniel Wetherbee, .	Acton.
18th,	{ Burlington, . . . } { Bedford, ... }	Charles K. Tucker, .	Lexington.
19th,	Woburn, ...	Charles S. Converse,	Woburn.
20th,	{ South Reading, . . } { Melrose, ... }	J. Sullivan Eaton, . Walter Littlefield, Jr.,	South Reading. Melrose.

COUNTY OF MIDDLESEX—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
21st,	{ Reading, ... } { North Reading, . . }	Samuel P. Breed, . .	Reading.
22d,	{ Wilmington, ... } { Tewksbury, ... } { Billerica, ... }	Dana Holden, . . .	Billerica.
23d,	{ Wards 1, 2 and 5, { { Lowell, ... }	William G. Wise, . . Sullivan Tay, . . . Horatio G. F. Corliss,	Lowell. " "
24th,	{ Wards 3, 4 and 6, { { Lowell, ... }	Stephen K. Fielding, John C. Jepson, . . George Stevens, . .	Lowell. " "
25th,	{ Chelmsford, ... } { Dracut, ... } { Tyngsborough, . . }	Henry Richardson, .	Dracut.
26th,	{ Shirley, ... } { Groton, ... } { Dunstable, ... } { Westford, ... } { Pepperell, ... }	Robert P. Woods, . . Eliel Shumway, . .	Groton. "
27th,	{ Townsend, ... } { Ashby, ... }	Cyrus A. Davis, . .	Ashby.

COUNTY OF WORCESTER.

1st,	{ Ashburnham, . . . }	Jacob B. Harris, . .	Winchendon.
	{ Winchendon, . . . }		
2d,	{ Athol, ... }	Isaac Stevens, . . .	Athol.
	{ Royalston, ... }		
3d,	{ Dana, ... }	John G. Mudge, . .	Petersham.
	{ Petersham, ... }		
	{ Phillipston, ... }		
4th,	{ Templeton, ... }	Gerard Bushnell, . .	Templeton.
	{ Hubbardston, ... }		
5th,	{ Gardner, ... }	Thomas E. Glazier, .	Gardner.
	{ Westminster, ... }		

COUNTY OF WORCESTER—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
6th,	{ Fitchburg, ... } { Leominster, ... } { Sterling, ... } { Lunenburg, ... }	Amasa Norcross, . . James Bennett, . . Samuel Osgood, . .	Fitchburg. Leominster. Sterling.
7th,	{ Harvard, ... } { Bolton, ... } { Berlin, ... }	John E. Fry, . . .	Bolton.
8th,	{ Clinton, ... } { Lancaster, ... }	Horace Faulkner, .	Clinton.
9th,	{ Princeton, ... } { Rutland, ... } { Oakham, ... }	James Allen, . . .	Oakham.
10th,	{ Barre, ... } { Hardwick, ... }	Charles Brimblecom, .	Barre.
11th,	{ Warren, ... } { West Brookfield, . . } { New Braintree, . . }	Samuel E. Blair, . .	Warren.
12th,	{ North Brookfield, . }	Amasa Walker, . . .	N. Brookfield.
13th,	{ Leicester, ... } { Spencer, ... }	Joseph A. Denny, .	Leicester.
14th,	{ West Boylston, . . }	James E. Cheney, . .	Holden.
15th,	{ Holden, ... } { Paxton, ... }		
15th,	{ Shrewsbury, . . . }	Milo Hildreth, . . .	Northborough.
16th,	{ Northborough, . . }		
16th,	{ Westborough, . . . }	Otis Newton, . . .	Westborough.
17th,	{ Southborough, . . }		
17th,	Grafton, ...	Rufus E. Warren, .	Grafton.
18th,	{ Northbridge, . . . }	Henry D. Johnson, .	Upton.
18th,	{ Upton, ... }		
19th,	Milford, ... {	John S. Scammell, . Andrew J. Sumner, .	Milford. “

COUNTY OF WORCESTER—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
20th,	{ Uxbridge, ... } { Mendon, ... }	Samuel W. Scott, .	Uxbridge.
21st,	Blackstone, . . .	Samuel Thayer, Jr., .	Blackstone.
22d,	{ Webster, ... } { Douglas, ... }	Lyman Sheldon, . .	Webster.
23d,	{ Southbridge, ... } { Dudley, ... }	John O. McKinstry, .	Southbridge.
24th,	{ Charlton, ... } { Sturbridge, ... }	Aaron H. Marble, .	Charlton.
25th,	{ Oxford, ... } { Sutton, ... } { Millbury, ... }	Hosea Crane, . . . Simon J. Woodbury,	Millbury. Sutton.
26th,	{ Auburn, and Ward } { 6, Worcester, . . }	Albert L. Benchley, .	Worcester.
27th,	{ Wards 1 and 2, Wor- } { cester, ... }	Alexander Thayer, .	Worcester.
28th,	{ Wards 3 and 8, Wor- } { cester, ... }	Dexter F. Parker, .	Worcester.
29th,	{ Wards 4 and 5, Wor- } { cester, ... }	James S. Woodworth,	Worcester.
30th,	Ward 7, Worcester, .	O. H. Tillotson, . .	Worcester.

COUNTY OF HAMPSHIRE.

1st,	{ Easthampton, ... } { Hatfield, ... } { Northampton, ... } { Southampton, ... }	William F. Arnold, . Orrin R. Moore, . .	Northampton. Southampton.
2d,	{ Chesterfield, ... } { Huntington, ... } { Westhampton, ... } { Williamsburg, ... }	Joel Cook, ...	Westhampton.
3d,	{ Cummington, ... } { Goshen, ... } { Middlefield, ... } { Plainfield, ... } { Worthington, ... }	William H. Bates, .	Worthington.

COUNTY OF HAMPSHIRE—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
4th,	{ Hadley, ... } { South Hadley, . . . }	Leicester W. Porter,	Hadley.
5th,	{ Amherst, ... } { Granby, ... } { Pelham, ... }	George Warner, . .	Amherst.
6th,	{ Belchertown, ... }	Benjamin Davis, Jr.,	Ware.
	{ Enfield, ... }	Rufus D. Woods, . .	Enfield.
	{ Greenwich, ... }		
	{ Prescott, ... }		
	{ Ware, ... }		

COUNTY OF HAMPDEN.

1st,	{ Brimfield, ... } { Monson, ... } { Holland, ... } { Wales, ... }	John W. Foster, . .	Monson.
2d,	Palmer, ...	Solomon A. Fay, . .	Palmer.
3d,	{ Wilbraham, ... } { Longmeadow, . . . }	Roderick Burt, . .	Wilbraham.
4th,	{ Wards 1 & 2, Spring- } { field, ... }	Marvin Chapin, . .	Springfield.
5th,	{ Wards 3 & 4, Spring- } { field, ... }	Henry Vose, . . .	Springfield.
6th,	{ Wards 5, 6, 7 and 8, } { Springfield, . . . }	Hiram Q. Sanderson,	Springfield.
7th,	{ Chicopee, ... } { Ludlow, ... }	George H. Chapman, James Renney, . .	Chicopee. “
8th,	{ Holyoke, ... } { West Springfield, . }	Elbridge G. Pierce, .	Holyoke.
9th,	{ Agawam, ... } { Southwick, ... } { Granville, ... }	Andrew J. Marvin, .	Southwick.
10th,	Westfield, ...	George Green, . .	Westfield.

COUNTY OF HAMPDEN—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
11th,	{ Chester, ... } { Blandford, ... } { Tolland, ... } { Montgomery, ... } { Russell, ... }	Charles W. Knox, .	Chester.

COUNTY OF FRANKLIN.

1st,	{ Bernardston, ... } { Colrain, ... } { Greenfield, ... } { Gill, ... } { Leyden, ... } { Shelburne, ... }	Pliny Fisk, ... George D. Wells, .	Bernardston. Greenfield.
2d,	{ Buckland, ... } { Charlemont, ... } { Heath, ... } { Monroe, ... } { Rowe, ... }	William T. Clement, .	Buckland.
3d,	{ Ashfield, ... } { Conway, ... } { Hawley, ... }	William C. Campbell,	Conway.
4th,	{ Deerfield, ... } { Whately, ... }	Horatio Hawks, . .	Deerfield.
5th,	{ Leverett, ... } { Shutesbury, ... } { Sunderland, ... } { Wendell, ... }	Alden C. Field, . .	Leverett.
6th,	{ Erving, ... } { Montague, ... } { Northfield, ... }	Solomon C. Wells, .	Montague.
7th,	{ New Salem, ... } { Orange, ... } { Warwick, ... }	Davis Goddard, . .	Orange.

COUNTY OF BERKSHIRE.

District.	Town or Ward.	Name of Representative.	Residence.
1st,	{ Hancock, ... } { Lanesborough, ... } { New Ashford, ... } { Williamstown, ... }	Calvin R. Taft,* . . .	Williamstown.
2d,	{ Adams, ... } { Cheshire, ... } { Clarksburg, ... } { Florida, ... } { Savoy, ... }	Russell C. Brown, . . Sylvander Johnson,†.	Cheshire. Adams.
3d,	{ Pittsfield, ... } { Dalton, ... } { Richmond, ... }	Julius Rockwell, . . Edward Larned,‡. . .	Pittsfield. “
4th,	{ Becket, ... } { Hinsdale, ... } { Peru, ... } { Washington, ... } { Windsor, ... }	John Smith, ...	Becket.
5th,	{ Lenox, ... } { Stockbridge, ... } { West Stockbridge, ... }	George W. Kniffin, .	W. Stockbridge.
6th,	{ Lee, ... } { Tyringham, ... }	Jouathan F. Cook, .	Lee.
7th,	{ Great Barrington, ... } { Alford, ... } { Monterey, ... }	William Dewey, . . .	Gt. Barrington.
8th,	{ New Marlborough, ... } { Sandisfield, ... } { Otis, ... }	James Hyde, ...	N. Marlboro’.
9th,	{ Sheffield, ... } { Mount Washington, ... } { Egremont, ... }	Chester Goodale, . .	Egremont.

* Contested and obtained seat of JOHN M. COLE—member certified.

† Contested and obtained seat of LANSING J. COLE—member certified.

‡ No attendance—did not qualify.

COUNTY OF NORFOLK.

District.	Town or Ward.	Name of Representative.	Residence.
1st,	Dedham, ...	Ezra W. Taft, . . .	Dedham.
2d,	West Roxbury, . .	Abijah W. Draper, .	West Roxbury.
3d,	Brookline, ...	Thomas Parsons, . .	Brookline.
4th,	Roxbury, ...	Samuel Walker, . . .	Roxbury.
		Henry Willis, ...	"
		James Guild, ...	"
5th,	Dorchester, ...	Edward H. R. Ruggles,	Dorchester.
		George M. Browne, . .	"
6th,	Quincy, ...	Franklin Curtis, . .	Quincy.
7th,	Braintree, ...	Horace Abercrombie,	Braintree.
8th,	Weymouth, ...	Nathaniel Shaw, . . .	Weymouth.
		Lot W. Bicknell, . . .	"
9th,	Randolph, ...	Jonathan Wales, . . .	Randolph.
10th,	Stoughton, ...	Cyrus S. Mann, . . .	Stoughton.
11th,	{ Canton, ... }	Jos. McKean Churchill,	Milton.
	{ Milton, ... }		
	{ Walpole, ... }		
	{ Sharon, ... }		
12th,	{ Foxborough, ... }	Daniels Carpenter, .	Foxborough.
	{ Wrentham, ... }		
	{ Medway, ... }		
13th,	{ Franklin, ... }	Steph. W. Richardson,	Franklin.
	{ Bellingham, ... }		
14th,	{ Needham, ... }	Lauren Kingsbury, .	Needham.
	{ Medfield, ... }		
	{ Dover, ... }		

COUNTY OF BRISTOL.

1st,	{ Pawtucket, ... }	William W. Blodgett,	Pawtucket.
	{ Attleborough, ... }	Horatio N. Richardson,	Attleborough.
2d,	{ Mansfield, ... }	John Crane, ...	Norton.
	{ Norton, ... }		

HOUSE OF REPRESENTATIVES.

COUNTY OF BRISTOL—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
3d,	{ Easton, ... } { Raynham, ... }	Horace D. Howard, .	Easton.
4th,	Taunton, ... {	Charles Foster, . . . Harrison Tweed, . . . Marcus Morton, . . .	Taunton. " "
5th,	{ Rehoboth, ... } { Seekonk, ... }	Joel Marble, ...	Seekonk.
6th,	{ Dighton, ... } { Somerset, ... } { Swanzey, ... }	Jervis Shove, ...	Dighton.
7th,	Fall River, ... {	Josiah C. Blaisdell, . Jonathan E. Morrill, .	Fall River. "
8th,	Westport, ...	Ezra P. Brownell, .	Westport.
9th,	Dartmouth, ...	Nathaniel Potter, Jr.,	Dartmouth.
10th,	{ Wards 1 and 2, New } { Bedford, ... }	William H. Allen, . . Hattil Kelley, ...	New Bedford. "
11th,	{ Wards 3, 4, 5 and 6, } { New Bedford, . . . }	Robert C. Pitman, . . Samuel Watson, . . . Thomas H. Soule, . . .	New Bedford. " "
12th,	{ Berkley, ... } { Freetown, ... } { Fairhaven, ... }	Martin L. Eldridge, . Thomas G. Nichols, .	Fairhaven. Freetown.

COUNTY OF PLYMOUTH.

1st,	{ Hull, ... } { Cohasset, ... } { Scituate, ... }	George M. Allen, . .	Scituate.
2d,	Hingham, ...	Elpalet L. Cushing, .	Hingham.
3d,	{ South Scituate, . . . } { Hanover, ... }	Lemuel C. Waterman,	South Scituate.
4th,	{ Marshfield, ... } { Pembroke, ... }	Henry Blanchard, .	Marshfield.

COUNTY OF PLYMOUTH—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
5th,	{ Duxbury, ... } { Kingston, ... }	William Ellison,* . .	Duxbury.
6th,	{ Plymouth, ... } { Carver, ... }	Rufus C. Freeman, . John B. Collingwood,	Plymouth. “
7th,	{ Wareham, ... } { Marion, ... }	John M. Kinney, . .	Wareham.
8th,	{ Mattapoisett, . . . } { Rochester, ... } { Lakeville, ... }	Jonathan H. Holmes,	Mattapoisett.
9th,	Middleborough, . .	Foster Tinkham, . .	Middleborough.
10th,	{ Bridgewater, . . . } { West Bridgewater, . }	Elbridge Keith, . .	Bridgewater.
11th,	{ East Bridgewater, . } { North Bridgewater, . }	Paul Couch, ... Benjamin W. Harris,	N. Bridgewater. E. “
12th,	Abington, ... {	William L. Reed, . . Daniel U. Johnson, .	Abington. “
13th,	{ Hanson, ... } { Halifax, ... } { Plympton, ... }	Edwin Inglee, . . .	Halifax.

COUNTY OF BARNSTABLE.

1st,	{ Barnstable, ... } { Sandwich, ... } { Falmouth, ... }	Paul Wing, ... John A. Baxter, . . Zenas D. Basset, . .	Sandwich. Barnstable. “
2d,	{ Yarmouth, ... } { Dennis, ... } { Harwich, ... } { Chatham, ... }	Luther Studley, . . John W. Atwood, . . Thomas Dodge, . .	Dennis. Chatham. “
3d,	{ Brewster, ... } { Orleans, ... } { Eastham, ... }	Ira Mayo, ...	Orleans.
4th,	{ Wellfleet, ... } { Truro, ... } { Provincetown, . . }	Nathaniel E. Atwood, Thomas H. Lewis, .	Provincetown. Wellfleet.

* Deceased, and WILLIAM BRADFORD chosen to fill vacancy.

HOUSE OF REPRESENTATIVES.

COUNTY OF DUKES.

District.	Town or Ward.	Name of Representative.	Residence.
1st,	{ Edgartown, . . . } Tisbury } Chilmark, ... }	Charles B Allen, . .	Tisbury.

COUNTY OF NANTUCKET.

1st,	Nantucket, ... {	Joseph Mitchell, . . : Charles Wood,* . . :	Nantucket.
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* Resigned, and PELEG RAY chosen to fill vacancy.

WILLIAM STOWE, *Clerk.*
REV. WARREN BURTON, *Chaplain.*
BENJAMIN STEVENS, *Sergeant-at-Arms.*
ALEXIS POOLE, *Door-keeper.*
HENRY OAKS, *Messenger.*

GUSTAVUS E. HAYNES, *Assistant-Messenger.*
WILLIAM SAYWARD, *Postmaster.*
Joseph P. Dexter, Jr., *Page.*
Amasa H. Tolman, *Page.*

Commonwealth of Massachusetts.

SECRETARY'S OFFICE, BOSTON,)
May 15, 1858.)

I hereby certify that the printed Acts, Resolves, &c.,
contained in this volume, are true copies of the originals.

OLIVER WARNER,

Secretary of the Commonwealth.

GENERAL STATUTES
AND
SPECIAL ACTS
OF
MASSACHUSETTS,
PASSED
1859.

 The General Court of 1859 assembled in the State House in Boston, on Wednesday, the fifth day of January, and was prorogued on Wednesday, the sixth day of April.

The oaths of office, required by the Constitution, were administered to His Excellency NATHANIEL P. BANKS, on Friday, the seventh day of January.

A C T S,

G E N E R A L A N D S P E C I A L.

AN ACT TO EXTEND THE TIME FOR THE CONSTRUCTION OF A RAILROAD, BY THE BOSTON AND WORCESTER RAILROAD CORPORATION BETWEEN CERTAIN POINTS, AND FOR CHANGING THE LOCATION OF A PORTION OF THEIR RAILROAD. Chap. 1.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:

The time allowed the Boston and Worcester Railroad Corporation for locating, constructing and completing the railroad authorized to be constructed by an act approved on the ninth day of May, in the year eighteen hundred and fifty-seven, entitled "An Act authorizing the Boston and Worcester Railroad Corporation to change the location of a portion of their road and for other purposes," is hereby extended until the ninth day of June, in the year eighteen hundred and sixty-two.

Time for locating,
&c., extended to
June 9, 1862.

Approved January 31, 1859.

AN ACT TO INCORPORATE THE INDIAN ORCHARD MILLS.

Chap. 2.

Be it enacted, &c., as follows:

SECTION 1. Jabez C. Howe, George O. Hovey and George S. Bullens, their associates and successors, are hereby made a corporation, by the name of Indian Orchard Mills, for the purpose of constructing and maintaining a dam or dams across the Chicopee River, from some point or points in or near the Indian Orchard Village, in the city of Springfield, to other point or points in the towns of Ludlow or Chicopee on the opposite side of said river; and one or more locks and canals in connection with the said dam or dams; and of creating and maintaining a water-power to be used by said corporation for the manufacturing of articles from cotton, wool, silk, flax and other materials; and to be sold or leased to other persons or corporations to be used for manufacturing or mechanical purposes; and shall have all the powers and privileges, and be subject to all the duties, liabilities and restrictions set forth in the thirty-eighth and

Corporators.

Name.

Purpose.

Location.

Privileges, re-
strictions, &c.

forty-fourth chapters of the Revised Statutes, and in the two hundred and seventy-sixth chapter of the acts of the year one thousand eight hundred and fifty-seven.

Power to purchase, &c.

SECTION 2. The said corporation shall have full power and authority to purchase, take, hold and receive, and to sell and dispose of all or any portion of the lands, buildings, dams, canals, water-power and water privileges heretofore owned or enjoyed by the corporations known as the Indian Orchard Canal Company and the Ward Manufacturing Company.

Capital stock \$600,000.

SECTION 3. The capital stock of said corporation shall not exceed the sum of six hundred thousand dollars; and it may hold real estate to the amount of four hundred thousand dollars.

Real estate \$400,000.

No shares issued under par.

SECTION 4. No shares in the capital stock of said corporation shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued.

SECTION 5. This act shall take effect from and after its passage.

Approved January 31, 1859.

Chap. 3.

AN ACT EXTENDING THE TIME FOR THE PAYMENT OF THE CAPITAL STOCK OF THE SUFFOLK RAILROAD COMPANY.

Be it enacted, &c., as follows:

Time for paying in capital stock extended one year.

The time allowed the Suffolk Railroad Company, by the eleventh section of the two hundred and eighty-fifth chapter of the acts of the year eighteen hundred and fifty-seven, to pay in ten per centum of their capital stock, is hereby extended one year beyond the time now required by law.

Approved January 31, 1859.

Chap. 4.

AN ACT TO AMEND THE ACT INCORPORATING THE NEWBURYPORT SOCIETY FOR THE RELIEF OF AGED FEMALES.

Be it enacted, &c., as follows:

Act of 1839 amended.

The second section of the act entitled, "An Act to incorporate the Newburyport Society for the relief of Aged Females," passed April tenth, eighteen hundred and thirty-nine, is hereby so altered and amended, that the said corporation may hold real and personal estate not exceeding in amount the sum of thirty thousand dollars, to be devoted exclusively to charitable purposes. *Approved January 31, 1859.*

Chap. 5.

AN ACT TO REDUCE THE CAPITAL STOCK OF THE MYSTIC RIVER RAILROAD, AND TO EXTEND THE TIME TO LOCATE AND CONSTRUCT THE SAME.

Be it enacted, &c., as follows:

Capital \$100,000.

SECTION 1. The capital stock of the Mystic River Railroad Corporation shall not exceed one hundred thousand

dollars, not less than eighty thousand of which shall be subscribed for by responsible parties, and twenty per centum thereof paid into the treasury of the company, before said railroad shall be located. \$80,000 to be subscribed, &c.

SECTION 2. The time allowed to locate and construct said railroad is hereby extended two years from the periods now fixed by law. Time for construction extended two years.

SECTION 3. All acts or parts of acts heretofore passed, inconsistent with this act, are hereby repealed. Repeal.

Approved January 31, 1859.

AN ACT TO INCORPORATE THE HOLYOKE WATER-POWER COMPANY.
Be it enacted, &c., as follows :

Chap. 6.

SECTION 1. William Appleton, George W. Lyman, Francis Bacon, Augustus H. Fiske, their associates and successors, are hereby made a corporation, by the name of the Holyoke Water-Power Company; for the purpose of upholding and maintaining the dam across the Connecticut River, heretofore constructed by the Hadley Falls Company, and one or more locks and canals in connection with the said dam, and of creating and maintaining a water-power, to be used by said corporation for manufacturing and mechanical purposes, and to be sold or leased to other persons or corporations, to be used for like purposes; and shall have all the powers and privileges, and be subject to all the liabilities and restrictions, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes, and in the two hundred and seventy-sixth chapter of the acts of the year one thousand eight hundred and fifty-seven.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

SECTION 2. The said corporation shall have full power and authority to purchase, take, hold, receive, sell, lease and dispose of all or any part of the estate, real, personal or mixed, with all the water-power, water-courses, water-privileges, dams, canals, rights, easements and appurtenances, thereto pertaining or belonging, or therewith connected, or which have at any time heretofore belonged unto or been the property of the said Hadley Falls Company, and any other real estate that may be required for the use of said corporation, for purposes contemplated by this act.

May purchase property of Hadley Falls company, &c.

SECTION 3. For the purpose of reimbursing the said corporation in part for the cost of keeping said locks and canals in repair, and attending unto the same, it shall be lawful for them, with the consent of the proprietors of the locks and canals on the Connecticut River, to charge, on all descriptions of merchandise, boats and rafts, the same rates

Rates of toll.

of toll as are allowed by law to the said proprietors for similar service.

Capital not to exceed \$600,000. in shares of \$100 each.

No shares issued under par.

SECTION. 4. The capital stock of said corporation shall not exceed the sum of six hundred thousand dollars, to be divided into shares of one hundred dollars each; and no shares in the capital stock thereof shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued.

SECTION 5. This act shall take effect from and after its passage.

Approved January 31, 1859.

Chap. 7.

AN ACT CONCERNING THE MILEAGE OF MEMBERS OF THE COUNCIL.
Be it enacted, &c., as follows:

Mileage.

SECTION 1. The members of the executive council shall receive one dollar for every five miles travel from their respective places of abode, once in each session thereof.

Repeal.

SECTION 2. All provisions of law inconsistent herewith are hereby repealed, and this act shall take effect from and after its passage.

Approved February 2, 1859.

Chap. 8.

AN ACT MAKING APPROPRIATIONS FOR THE MILEAGE AND COMPENSATION OF THE MEMBERS OF THE LEGISLATURE, AT THE PRESENT SESSION THEREOF.

Be it enacted, &c., as follows:

Appropriation for members.

SECTION 1. The sums hereinafter mentioned are appropriated, and shall be allowed and paid out of the treasury of this Commonwealth, from the ordinary revenue, upon the warrants of the governor, for the purposes specified, to meet the expenses for mileage and compensation of the members of the senate and house of representatives at the present annual session thereof:

Compensation and mileage.

For the mileage of senators, a sum not exceeding four hundred dollars.

For the mileage of representatives, a sum not exceeding two thousand four hundred dollars.

For the compensation of senators, a sum not exceeding twelve thousand three hundred dollars.

For the compensation of representatives, a sum not exceeding seventy-two thousand four hundred dollars.

SECTION 2. This act shall take effect from and after its passage.

Approved February 2, 1859.

Chap. 9

AN ACT CONCERNING THE METROPOLITAN RAILROAD COMPANY.

Be it enacted, &c., as follows:

Increase of capital authorized.

SECTION 1. The Metropolitan Railroad Company is hereby authorized to increase its capital stock, by adding thereto a sum not exceeding four hundred thousand dollars, and to

invest such portion thereof in real estate, in the town of Dorchester, as may be necessary and convenient for the purposes for which said company was incorporated: *provided, however*, that no shares in the capital stock hereby authorized, shall be issued for a less sum or amount, to be actually paid in on each share, than the par value of the stock of said company. Proviso.

SECTION 2. The legislature may at any time repeal this act, and the three hundred and fifty-third chapter of the acts of the year eighteen hundred and fifty-three, incorporating said Metropolitan Railroad Company, or limit, restrict or annul any powers in said acts granted. May repeal, &c.

SECTION 3. This act shall take effect from and after its passage. Approved February 3, 1859.

AN ACT TO EXTEND PEARCE'S WHARF IN THE TOWN OF GLOUCESTER. Chap. 10.
Be it enacted, &c., as follows:

William Pearce Parrott and others, proprietors of a wharf known as Pearce's wharf, in Gloucester, are hereby authorized to extend and maintain said wharf in its present width, sixty feet into the harbor, in the direction it now runs; and shall have the right to lay vessels at the end and sides of said wharf, and receive wharfage and dockage therefor: *provided, however*, that this grant shall in no wise impair the legal rights of any person. May extend wharf.
Rights, &c.
Proviso.
Approved February 3, 1859.

AN ACT TO AUTHORIZE THE SPRINGFIELD FIRE AND MARINE INSURANCE COMPANY TO INCREASE ITS CAPITAL STOCK. Chap. 11.
Be it enacted, &c., as follows:

SECTION 1. The Springfield Fire and Marine Insurance Company is hereby authorized to increase its capital stock, by the addition thereto of a sum not exceeding one hundred and fifty thousand dollars, to be divided into shares of one hundred dollars each, to be paid in within two years from the passage of this act, in such instalments as the directors shall determine, and to be invested according to the laws of the Commonwealth. Increase of capital authorized.

SECTION 2. The said corporation may hold real estate for its use, in the city of Springfield, not exceeding forty thousand dollars in value, including the amount which it is now authorized by law to hold. Real estate \$40,000.
Approved February 3, 1859.

AN ACT EXTENDING THE TIME FOR THE CONSTRUCTION OF THE AGRICULTURAL BRANCH RAILROAD. Chap. 12.

Be it enacted, &c., as follows:

The time allowed to the Agricultural Branch Railroad Company to construct its railroad, is hereby extended three years. Time for construction extended.
Approved February 3, 1859.

Chap. 13. AN ACT TO AUTHORIZE THE FIRST BAPTIST CHURCH IN WOBURN,
TO SELL CERTAIN REAL ESTATE.

Be it enacted, &c., as follows :

Authorized to sell
real estate, &c.

SECTION 1. The First Baptist Church, in Woburn, is hereby authorized to sell so much of the real estate bequeathed to said church by the will of Peter Fisk, late of said Woburn, deceased, as is situate in the town of Woburn ; and the treasurer of said church, for the time being, is hereby authorized to execute a deed or deeds to convey the same.

Proceeds invest-
ed, &c.

SECTION 2. The proceeds of said sale shall be invested in such manner as said church shall direct ; and the income thereof, but no part of the principal, shall be expended in the same manner as is provided in the will of said Peter Fisk, and for carrying out the uses and trusts therein contained.

Approved February 3, 1859.

Chap. 14. AN ACT TO AMEND THE CHARTER OF THE WALTHAM IMPROVEMENT
COMPANY.

Be it enacted, &c., as follows :

Name changed.

SECTION 1. The Waltham Improvement Company, in Waltham, may take the name of the American Watch Company.

May issue 3,000
shares, &c.

SECTION 2. The said company may issue shares, not exceeding three thousand in number, which shall not be liable to assessment exceeding one hundred dollars on each share.

Liabilities, &c.

SECTION 3. The liabilities and privileges of said corporation shall remain unaltered, except to conform to the provisions of this act.

SECTION 4. This act shall take effect from and after its passage.

Approved February 4, 1859.

Chap. 15. AN ACT TO INCORPORATE THE THURBER MEDICAL ASSOCIATION.

Be it enacted, &c., as follows :

Corporators.

SECTION 1. Francis Leland, Allen C. Fay and John G. Metcalf, their associates and successors, are hereby made a corporation, by the name of the Thurber Medical Association, for the purpose of improvement in the different branches of medical science, the establishment of a library of medical books and of the collateral sciences, and the collection and preservation of specimens in healthy and morbid anatomy and natural history ; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

Name.

Purpose.

Privileges, re-
strictions, &c.

SECTION 2. No person shall be admitted a member of this association unless he shall be a member of the Massachusetts Medical Society. Admission of members.

SECTION 3. The meetings of this association shall be held in the town of Milford, in the county of Worcester. Meetings.

SECTION 4. Said corporation may hold personal estate not to exceed the sum of five thousand dollars, to be applied exclusively to the purposes aforesaid. Personal estate \$5,000.

Approved February 4, 1859.

AN ACT EXTENDING THE TIME FOR TAKING OUT EXECUTIONS.

Be it enacted, &c., as follows :

SECTION 1. No original execution shall be issued unless within one year after the party shall be entitled to sue out the same, and no alias or other successive execution shall be issued afterwards, unless each one be sued out within five years after the return day of that which preceded it, except as is provided by existing laws. Executions to be issued within one year. Alias within five years.

SECTION 2. Section six of the ninety-seventh chapter of the Revised Statutes and so much of section seven of the same chapter as is after the word "surrender" in the third line thereof, are hereby repealed. Repeal. *Approved February 4, 1859.*

Chap. 16.

AN ACT TO AUTHORIZE THOMAS HINCKLEY TO BUILD A WHARF.

Be it enacted, &c., as follows :

Thomas Hinckley is hereby authorized to build and maintain a wharf extending not over one hundred and fifty feet from the high-water mark of his lot of land, and adjoining land of Elihu Fish and heirs of John Webster, in Falmouth, Woods' Hole, Little Harbor ; and shall have the right to lay vessels at the end and sides of said wharf, and to receive wharfage and dockage therefor: *provided, however,* that this grant shall not interfere with the legal rights of any person. Wharf in Falmouth. Rights, &c. Proviso. *Approved February 4, 1859.*

Chap. 17.

AN ACT TO EXTEND BATTERY WHARF, IN THE TOWN OF GLOUCESTER.

Be it enacted, &c., as follows :

Frederick G. Low, proprietor of a wharf known as "Battery Wharf," in the town of Gloucester, is hereby authorized to extend and maintain said wharf, in its present width, not exceeding one hundred and twenty-five feet in a southerly and westerly direction towards the channel, and shall have the right to lay vessels at the end and sides of said wharf, and receive wharfage and dockage therefor: *provided, however,* that this grant shall in no wise impair the legal rights of any person. May extend wharf. Rights, &c. Proviso. *Approved February 4, 1859.*

Chap. 18.

Chap. 19. AN ACT IN ADDITION TO "AN ACT RELATING TO THE MYSTIC RIVER CORPORATION."

Be it enacted, &c., as follows:

May extend dock,
and construct
sea-wall, &c.

SECTION 1. The Mystic River Corporation is hereby authorized to extend a dock, if desired, from the channel on the north-easterly side of their inclosure below Chelsea Bridge, in a north-westerly direction towards said bridge; and to construct so much of their sea-wall as is required to be built on a curved line in straight sections not exceeding one hundred and fifty feet each in length; but no part of said wall so constructed shall extend beyond the line as defined by the act to which this is an act in addition.

May build wharf.

Proviso.

SECTION 2. Said corporation may build a band of pile wharf around their sea-wall, on the outside, not exceeding thirty-five feet in width: *provided, however*, that so much of said pile wharf as is on the main channel, shall not extend beyond the line of sea-wall now fixed by law; and the sea-wall authorized to be built upon that line may be set back for that purpose.

May sell lands,
&c.

Supervised by
commissioner.

SECTION 3. Said corporation may sell and convey by deed, in fee simple, from time to time, their lands and improvements to an amount not exceeding four-fifths of said improvements. And all acts hereby authorized, shall be done under the supervision of the commissioner mentioned in the act to which this is an act in addition.

Time extended.

SECTION 4. The time allowed for completing the improvements of said Mystic River Corporation, is hereby extended ten years from the passage of this act.

Repeal.

SECTION 5. All acts or parts of acts inconsistent with this act are hereby repealed.

Approved February 4, 1859.

Chap. 20. AN ACT TO EXTEND THE TIME FOR THE LOCATION AND CONSTRUCTION OF THE SPRINGFIELD AND FARMINGTON VALLEY RAILROAD.

Be it enacted, &c., as follows:

Time for con-
struction ex-
tended.

The time for the location and construction of the Springfield and Farmington Valley Railroad, is hereby extended two years from the time designated in their act of incorporation.

Approved February 4, 1859.

Chap. 21. AN ACT TO AUTHORIZE THE CITY OF BOSTON TO LAY OUT A HIGHWAY BY EXTENDING ALBANY STREET.

Be it enacted, &c., as follows:

Extension of
street, &c.

SECTION 1. The board of aldermen of the city of Boston, with the concurrence of the common council, and the approval of the mayor thereof, are hereby authorized and empowered to lay out a highway, in continuation of Albany Street, in said city, not exceeding eighty feet wide, and

extending from Malden Street, across the tide water in the south bay, so called, in any convenient direction or directions, within the commissioners' line, as now established, to Troy Street; and to protect said highway, if they shall deem it necessary, by the erection of a sea-wall outside thereof: *provided, however*, that no part of such sea-wall shall be outside of the said commissioners' line: and also, if they shall see fit, to widen the Dover Street Bridge between Harrison Avenue and Foundry Street, so that the same may be fifty feet wide and no more, between the points herein designated.

SECTION 2. Any person or persons whose flats or land shall be taken for the purpose aforesaid, shall have the same rights and remedies for the assessment and collection of damages sustained by him or them, which are now provided by law in cases where lands are taken for public highways.

Damages, how to be settled, &c.

SECTION 3. This act shall take effect from and after its passage.

Approved February 4, 1859.

AN ACT RELATING TO THE PRINTING OF THE DOCUMENTS OF THE PUBLIC SERIES.

Chap. 22.

Be it enacted, &c., as follows:

SECTION 1. The fourth section of the forty-sixth chapter of the acts of the year eighteen hundred and fifty-eight, is hereby so far modified as to provide, that the number of copies of the documents of the public series, that shall be printed, shall be two thousand, instead of sixteen hundred and fifty.

Two thousand copies to be printed.

SECTION 2. Nothing herein contained shall alter or affect the proviso in said section.

Act not to affect.

Approved February 5, 1859.

AN ACT TO EXTEND THE TIME WITHIN WHICH TO CONSTRUCT A PORTION OF THE MIDLAND RAILROAD.

Chap. 23.

Be it enacted, &c., as follows:

The time within which the Midland Railroad Company may construct that portion of their railroad which was originally incorporated as the Southbridge and Blackstone Railroad Company, is hereby extended to the first day of May, in the year eighteen hundred and sixty: *provided, however*, that any person whose land or other property has been taken by said railroad company, shall have one year in addition to the time now allowed, to avail himself of the remedies provided in the thirty-ninth chapter of the Revised Statutes.

Time for construction extended.

Proviso.

Approved February 5, 1859.

Chap. 24. AN ACT TO REDUCE THE CAPITAL STOCK OF THE SALEM BANK, IN SALEM.

Be it enacted, &c., as follows :

Reduction of capital authorized.

Proviso.

SECTION 1. The president, directors and company of the Salem Bank, in Salem, are hereby authorized to reduce their present capital stock to the sum of one hundred and eighty-seven thousand five hundred dollars: *provided, however,* that no dividends of any part of the present capital stock of said bank shall be made, nor shall this act be in force, until the bank commissioners, or a majority of them, shall have certified their opinion in writing, to the governor and council, that the said corporation has sufficient funds for the payment of all notes, bills, deposits and other demands existing against it, and that, after the payment thereof, the net sum of one hundred and eighty-seven thousand five hundred dollars will remain in said bank as capital stock, in funds available for all usual and proper banking purposes.

New shares \$75.

SECTION 2. No change shall be made in the present number of shares in said capital stock; but new certificates, in shares of seventy-five dollars each, shall be issued to the respective stockholders entitled thereto, upon their surrender of the certificates held by them.

Present capital subject to tax till certificate of bank commissioners is filed with governor, &c.

SECTION 3. From and after the time when the said certificate of said commissioners shall have been delivered as aforesaid, all the rights, duties and liabilities of said corporation shall have relation to, and be governed by, said reduced capital of one hundred and eighty-seven thousand five hundred dollars; and until the said certificate shall have been made and delivered as aforesaid, the said corporation shall pay into the treasury of the Commonwealth, the tax required by law to be paid on the present capital stock of said bank.

Approved February 14, 1859.

Chap. 25. AN ACT TO AMEND AN ACT TO AUTHORIZE CITIES AND TOWNS TO ESTABLISH AND MAINTAIN PUBLIC LIBRARIES.

Be it enacted, &c., as follows :

Act of 1851 amended.

SECTION 1. The three hundred and fifth chapter of the acts of the year eighteen hundred and fifty-one, is so far amended as to allow any city or town to appropriate annually, for the maintenance and increase of a public library within the same, a sum not exceeding fifty cents for each of its ratable polls in the year next preceding that in which such appropriation shall be made.

SECTION 2. This act shall take effect from and after its passage.

Approved February 14, 1859.

AN ACT IN RELATION TO THE ELIOT FIRE INSURANCE COMPANY, IN BOSTON.

Chap. 26.

Be it enacted, &c., as follows:

SECTION 1. The Eliot Fire Insurance Company, in Boston, is hereby authorized to increase its capital stock, by adding thereto a sum not exceeding one hundred thousand dollars: *provided, however*, that such addition shall be paid in within two years from and after the passage of this act.

Increase of capital authorized.

Proviso.

SECTION 2. No stock shall be issued under this act, for a less sum or amount, to be actually paid in on each share, than the par value of the original shares.

Shares not to be issued less than par value

Approved February 14, 1859.

AN ACT RELATING TO RETURNS OF ELECTIONS.

Chap. 27.

Be it enacted, &c., as follows:

The secretary of the Commonwealth shall, with the returns of votes, which he is required by the constitution to lay before the senate and house of representatives, on the first Wednesday of January, to be by them examined, also return schedules showing the number of ballots which appear to have been cast for each person voted for, in the several cities and towns of the Commonwealth.

Secretary to return schedule of number of ballots for each person voted for.

Approved February 14, 1859.

AN ACT AUTHORIZING SAMUEL R. EDWARDS AND ANOTHER TO WIDEN TOWN RIVER IN QUINCY.

Chap. 28.

Be it enacted, &c., as follows:

Samuel R. Edwards and Charles H. Edwards are hereby authorized to widen, straighten and deepen the channel of Town River, in the town of Quincy, in the county of Norfolk: *provided, however*, that this grant shall not in any manner interfere with the legal rights of any person or persons whatever.

May widen channel, &c.

Proviso.

Approved February 15, 1859.

AN ACT RELATING TO THE LOWELL INSTITUTION FOR SAVINGS.

Chap. 29.

Be it enacted, &c., as follows:

SECTION 1. The Lowell Institution for Savings, is hereby continued as a corporation from and after the expiration of its present charter, with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the general laws of the Commonwealth relating to institutions for savings.

Act continued.

SECTION 2. This act shall take effect from and after its passage.

Approved February 15, 1859.

Chap. 30.

AN ACT TO INCORPORATE THE ROXBURY MECHANICS' INSTITUTE.

Be it enacted, &c., as follows:

Corporators.

SECTION 1. William Whiting, Donald Kennedy, James Ritchie, their associates and successors, are hereby made a corporation, by the name of the Roxbury Mechanics' Institute, to be established in the city of Roxbury, for the purpose of maintaining a library, advancing science and the useful arts, and promoting public instruction by classes, lectures, discussions or otherwise; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes: and said corporation may hold real and personal estate to the value of one hundred thousand dollars, to be devoted as may be judged expedient to the furtherance of the above named purposes.

Name.

Purpose.

Privileges, restrictions, &c.

Real and personal estate, \$100,000.

Donations, &c., to inure to the corporation.

SECTION 2. All donations, devises and bequests of real or personal estate, which may be made to the Roxbury Mechanics' Institute, or to the board of directors or managers thereof, shall inure to the use and benefit of the corporation hereby created, to be appropriated to the purpose or purposes designated in any such donation, devise or bequest.

SECTION 3. This act shall take effect from and after its passage.

Approved February 15, 1859.

Chap. 31.

AN ACT TO AUTHORIZE HIRAM BROOKS TO EXTEND HIS WHARF.

Be it enacted, &c., as follows:

May extend wharf.

Rights, &c.

Proviso.

Provided also.

Hiram Brooks, owner of a wharf situated in Cambridge, on the westerly side of Charles River, and on the northerly side of Hancock Free Bridge, is hereby authorized to extend the same to the commissioners' line; and he shall have the right to lay vessels at the end and on the northerly side thereof, and to receive wharfage and dockage therefor: *provided, however*, that no part of said wharf or of the addition thereto, shall be extended southerly of the line of the Hancock Free Bridge, or northerly, more than one hundred and fifty feet from the line of said Bridge; and *provided, also*, that this act shall in no way impair the legal rights of any person or corporation whatever.

Approved February 15, 1859.

Chap. 32.

AN ACT RELATING TO CHARLES RIVER AND WARREN BRIDGES.

Be it enacted, &c., as follows:

Agent authorized to lease buildings, &c.

Proviso.

The agent of Charles River and Warren Bridges is hereby authorized to lease, under such conditions and limitations as the governor and council may direct, all buildings belonging to the Commonwealth situated on said bridges: *provided*,

however, that the form and substance of such lease, or leases, shall be first approved by the governor and council, and the same shall be determinable at their will.

Approved February 15, 1859.

AN ACT TO INCORPORATE THE MARTHA'S VINEYARD AGRICULTURAL SOCIETY, IN THE COUNTY OF "DUKES COUNTY."

Chap. 33.

Be it enacted, &c., as follows :

SECTION 1. Leavitt Thaxter, Allen Tilton, Charles B. Allen, their associates and successors, are hereby made a corporation by the name of the Martha's Vineyard Agricultural Society, for the encouragement of agriculture and the mechanic arts, in the county of "Dukes County," by premiums and other means ; with all the powers and privileges, and subject to all the duties, liabilities and restrictions of other agricultural societies established in this Commonwealth.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

SECTION 2. Said society shall be entitled, on the same terms as other incorporated agricultural societies, to receive annually, from the treasury of the Commonwealth, two hundred dollars, under the provisions of the forty-second chapter of the Revised Statutes, notwithstanding the restrictions contained in the proviso of section second of said chapter.

Entitled to \$200 annually from the treasury.

Approved February 15, 1859.

AN ACT IN ADDITION TO THE ACTS RELATING TO THE BOSTON DISPENSARY.

Chap. 34.

Be it enacted, &c., as follows :

SECTION 1. In addition to the existing members of the corporation of the Boston Dispensary, the present and future managers, treasurers and secretaries, shall be and become members with all the rights of corporators.

Additional persons entitled to membership.

SECTION 2. Said corporation may take and hold real and personal estate, to an amount in value not exceeding double that authorized by the acts passed February twenty-sixth, in the year eighteen hundred and one, and January thirtieth, in the year eighteen hundred and fifty-two.

Real and personal estate.

Approved February 15, 1859.

AN ACT CONCERNING THE BROOKLINE RAILROAD COMPANY.

Chap. 35.

Be it enacted, &c., as follows :

SECTION 1. The three hundred and fourth chapter of the acts passed in the year one thousand eight hundred and fifty-seven, entitled, "An Act to incorporate the Brookline Railroad Company," is hereby amended, by striking out from the tenth section thereof the words "one hundred," in

Act of 1857 amended.

the two places where they occur, and inserting instead thereof the word "fifty."

May sell franchise &c., to Metropolitan Railroad Company.

Rights and privileges acquired.

Act void unless, &c.

SECTION 2. The Brookline Railroad Company is hereby authorized to lease or sell its franchise, rights and property, to the Metropolitan Railroad Company, upon such terms as may be agreed upon between said companies; and if the Brookline Railroad Company shall sell and transfer its franchise, rights and property, as aforesaid, the Metropolitan Railroad Company shall acquire and possess, in addition to its own rights, powers, privileges and capital, all the rights, powers, privileges and capital, conferred upon the Brookline Railroad Company by its act of incorporation; and upon the complete execution of such sale and transfer, the Brookline Railroad Company shall cease to exist as a distinct corporation, to the same extent and with like effect, as if its charter had expired by limitation.

SECTION 3. This act shall be void, unless assented to by the mayor and aldermen of the city of Roxbury, and the selectmen of the town of Brookline.

SECTION 4. This act shall take effect from and after its passage.

Approved February 17, 1859.

Chap. 36.

AN ACT RELATIVE TO THE SPECIFIC PERFORMANCE OF WRITTEN CONTRACTS.

Be it enacted, &c., as follows:

When guardian is appointed after written contract for, and before conveyance of real estate, courts to have jurisdiction.

Proceedings.

Guardian may be ordered to make conveyances, &c.

SECTION 1. When any person shall have entered into a written contract for the conveyance of real estate, and a guardian shall be afterwards appointed of such person and his estate before the making of such conveyance, the supreme judicial court and the judge of probate and insolvency for the county wherein said real estate is situated, shall have original and concurrent jurisdiction; and the supreme judicial court or the said judge of probate and insolvency, upon a petition duly presented by any person interested in said conveyance, shall order the petitioner to give notice to all persons interested, that they may appear and show cause either for or against the prayer of said petition.

SECTION 2. If upon such hearing before said court or said judge of probate and insolvency, as the case may be, it shall be made to appear that such person, if not under guardianship, would be required to make such conveyance, then the said court or the said judge of probate and insolvency, before whom said petition is pending, if it shall appear that justice requires that such conveyance should be made, shall order the guardian of such person to make such conveyance: and said conveyance so made shall have the like

force and effect as if made by such person when legally competent to execute deeds of conveyance: *provided, however*, that when such order is made by a judge of probate and insolvency, either party may appeal to the supreme judicial court.

Proviso.

Approved February 18, 1859.

AN ACT CONCERNING REAL ACTIONS.

Chap. 37.

Be it enacted, &c., as follows :

SECTION 1. Whenever a controversy exists as to any tract of land, parts of which are situated in two or more different adjoining counties, all actions and proceedings concerning such land, may be commenced and prosecuted in the courts of either of said counties; and where actions or proceedings have been instituted for any part of such land in one of such counties, the court may, on motion, and notice to the defendants, allow the plaintiff to amend his declaration or proceedings, so that they shall also embrace the remaining land situated in any other of said adjoining counties.

Lands in controversy in different counties, actions may be commenced in either county, &c.

SECTION 2. This act shall take effect from and after its passage.

Approved February 18, 1859.

AN ACT MAKING APPROPRIATIONS FOR EXPENSES OF THE STATE ALMSHOUSES, AND THE HOSPITAL AT RAINSFORD ISLAND.

Chap. 38.

Be it enacted, &c., as follows :

SECTION 1. The sums hereinafter mentioned are appropriated, and shall be allowed and paid out of the treasury of this Commonwealth, from ordinary revenue, upon the warrants of the governor, for the purpose of meeting the current expenses of the institutions hereinafter named, for the quarter ending March thirty-first in the year one thousand eight hundred and fifty-nine, to wit:

Appropriations for 1859.

For the state almshouse at Tewksbury, a sum not exceeding nine thousand dollars.

Tewksbury.

For the state almshouse at Monson, a sum not exceeding eight thousand dollars.

Monson.

For the state almshouse at Bridgewater, a sum not exceeding eight thousand dollars.

Bridgewater.

For the hospital at Rainsford Island, a sum not exceeding five thousand dollars.

Hospital, Rainsford Island.

SECTION 2. This act shall take effect from and after its passage.

Approved February 18, 1859.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO SECURE THE SAFETY OF PASSENGERS AT RAILROAD CROSSINGS."

Chap. 39.

Be it enacted, &c., as follows :

SECTION 1. Chapter four hundred and fifty-two of the acts of the year one thousand eight hundred and fifty-five,

Act of 1855 amended.

entitled "An Act to secure the safety of Passengers at Railroad Crossings," is hereby so amended as to provide that when two or more crossings, on the same railroad, are situate within six hundred feet of each other, one stop shall suffice for both.

SECTION 2. This act shall take effect from and after its passage.

Approved February 18, 1859.

Chap. 40. AN ACT ESTABLISHING THE LINE BETWEEN THE TOWNS OF MARION AND WAREHAM.

Be it enacted, &c., as follows :

Dividing line.

The following described line shall hereafter be a part of the dividing line between Marion and Wareham, viz. : commencing at the junction of Sippican and Weweantit rivers, at a point bearing north, seventy-two and one-quarter degrees east, four hundred and twenty-eight feet from a split stone monument, marked M., on the top, standing on the westerly bank of Sippican River, on land of William Rankin ; thence running in a north-westerly direction, with the thread or channel of Sippican River, to a point in the centre of said channel, bearing north, fifty-one and one-half degrees east, two hundred and thirty feet from a split stone post in the centre of the terminus of the county road, near the old toll bridge in Marion, said stone standing south, eighty-six degrees west, one hundred and thirty-three and one-half feet from a drilled hole in the top of a large rock in Sippican River, in Marion ; thence running with the channel of said river, to Mendell's Bridge, so called, in Marion.

Approved February 18, 1859.

Chap. 41. AN ACT AUTHORIZING THE TREASURER TO RECEIVE CERTAIN MONEYS FROM THE TREASURY OF THE UNITED STATES.

Be it enacted, &c., as follows :

Authorized to receive \$9,215.13.

SECTION 1. The treasurer and receiver-general of the Commonwealth is hereby authorized to receive, of the proper officers of the United States treasury, the sum of nine thousand two hundred and fifteen dollars and thirteen cents, the sum appropriated for the reimbursement of expenditures incurred by the Commonwealth, to enable the government of the United States to fulfil the treaty of Washington, for the settlement of the north-eastern boundary, April ninth, in the year eighteen hundred and forty-two.

SECTION 2. This act shall take effect from and after its passage.

Approved February 18, 1859.

AN ACT TO INCORPORATE THE ORIENTAL FIRE AND MARINE INSURANCE COMPANY.

Chap. 42.

Be it enacted, §c., as follows:

SECTION 1. Richard Girdler, William T. Haskell, David Snow, their associates and successors, are hereby made a corporation, by the name of the Oriental Fire and Marine Insurance Company, in the city of Boston, for the purpose of making insurance against maritime losses and losses by fire; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the thirty-seventh and forty-fourth chapters of the Revised Statutes, and in all acts subsequently passed relating to insurance companies.

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

SECTION 2. The said corporation shall have a capital stock of one hundred and fifty thousand dollars, divided into shares of one hundred dollars each, with liberty to pay in and increase the same to any amount not exceeding two hundred and fifty thousand dollars, and may hold real estate for its own use to the value of fifty thousand dollars.

Capital \$150,000.

Shares \$100 each.

Real estate \$50,000.

SECTION 3. The said corporation may issue policies, whenever one hundred thousand dollars of its capital shall have been subscribed, and paid in, in cash.

\$100,000 to be paid in before issue of policies.

SECTION 4. This act shall take effect from and after its passage.

Approved February 18, 1859.

AN ACT TO INCORPORATE THE DORCHESTER EXTENSION RAILWAY.

Chap. 43.

Be it enacted, §c., as follows:

SECTION 1. Henry L. Pierce, Asaph Churchill and Edward H. R. Ruggles, their associates, successors and assigns, are hereby made a corporation by the name of the Dorchester Extension Railway, with power to construct, maintain and use a railway or railways, with convenient single or double tracks, to be operated by horse-power only, from a point near the Lower Mills, so called, in the town of Dorchester, through Dorchester Avenue to the present terminus of the Dorchester Railway, at Centre Street, in said town of Dorchester, and to connect their tracks with the tracks of said Dorchester Railway Company in said town of Dorchester, on said Dorchester Avenue. And such corporation may construct and maintain a railway or railways with convenient single or double tracks, to be operated by horse-power only, upon and over such streets and ways within the limits of said town of Dorchester, as the selectmen of said town may by their votes, from time to time, permit or determine; and said corporation shall have power to fix, from time to time, such rates of compensation for the transporta

Corporators.

Name.

Powers.

Location.

Horse-power only.

Rates of fare and freight.

Privileges, restrictions, &c.	tion of persons and property as they may think expedient, and shall have all the powers and privileges, and be subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.
Grade and gauge.	SECTION 2. All the tracks of said railway shall be laid in such part of said avenue and streets, and shall be constructed in such form and manner and upon such grades and with such gauge as the selectmen of said town shall determine to be for the public safety and convenience ; and such tracks shall not be laid until the location thereof shall be authorized and accepted by the selectmen of said town of Dorchester, after notice to the abutters by publication in two newspapers, one in the county of Suffolk, and one in the county of Norfolk.
Notice to abutters, &c.	
Rate of speed, &c.	SECTION 3. The selectmen of said town shall have full power at all times to make such regulations as to the rate of speed and mode of use of said tracks as the public safety and convenience may require.
Repairs, &c.	SECTION 4. Said corporation shall maintain and keep in repair such portions of said avenue and streets, respectively, as shall be occupied by their tracks, and shall be liable for any loss or injury that any person may sustain by reason of any carelessness, neglect or misconduct of its agents and servants in the management, construction or use of said tracks and road. And in case any recovery shall be had against said town by reason of such defect, want of repair, or use, said corporation shall be liable to pay to said town any moneys thus recovered against it, together with all costs and reasonable expenditures incurred by said town in the defence of any such suit or suits in which such recovery shall be had ; and such corporation shall not incur any portion of the streets not occupied by the said road or tracks.
Penalty for obstructing corporation.	SECTION 5. If any person shall wilfully and maliciously obstruct said corporation in the use of its road or tracks, or the passing of its cars or carriages thereon, or on any connecting road, such person or persons, and all who shall be aiding and abetting therein, shall be punished by a fine, not exceeding five hundred dollars, or may be imprisoned in the common jail for a period not exceeding three months. If said corporation or its agents or servants shall wilfully and maliciously obstruct any highway or the passing of any carriages over the same, such corporation shall be punished by a fine not exceeding five hundred dollars.
Penalty if corporation obstruct.	
May purchase real estate.	SECTION 6. Said corporation shall have power to purchase and hold such real estate in said town of Dorchester as shall be necessary or convenient for the purposes or man-

agement of said railway, and may lease their railway to any person or company, and may enter into contracts for the sale or lease of said railway, or for the purchase or hire of any connecting railway, with the company owning such connecting railway.

May lease, &c.

SECTION 7. The capital stock of said corporation shall not exceed fifty thousand dollars, to be divided into shares of one hundred dollars each; and no share shall be issued for a less sum, to be actually paid in on each share, than the par value of the shares which shall first be issued.

Capital \$50,000.

Shares \$100.

No shares issued under par.

SECTION 8. The town of Dorchester may at any time after the expiration of ten years from the opening of any part of said railway for use, purchase of said corporation all the franchise, property, rights and furniture of said corporation, by paying them therefor such a sum as will reimburse to each person who may then be a stockholder therein, the par value of his stock, together with a net profit of ten per cent. per annum, from the time of the transfer of said stock to him on the books of said corporation, deducting the dividends received by said stockholder thereon.

Town of Dorchester may purchase franchise, &c.

SECTION 9. Nothing in this act shall be construed to prevent the proper authorities within said town from entering upon and taking up any part of the public streets traversed by said railway, for the purposes for which they may be now lawfully taken up for repairs; and at any time after the expiration of one year from the opening for use of the track or tracks of such railway on any street or road in which the same may be located, the selectmen of said town may, by vote of the major part thereof, determine that any part of said track or tracks be discontinued, and thereupon the location shall be deemed to be revoked, and the tracks of said railway shall be taken up and removed, in conformity with such vote or order of such selectmen; and such taking up and removal shall be at the expense of said corporation.

Act not to prevent authorities, &c.

SECTION 10. This act shall be void unless the same shall be accepted by the selectmen of said town and by said corporation, and at least five thousand dollars of the capital stock thereof paid in within six months after the passage of this act. And this act shall also be void unless the railway hereby authorized between said intersection of Centre Street with said Dorchester Avenue and a point near said Lower Mills shall be constructed within six months after the passage of this act; and after such passage, the right of said Dorchester Railway Company to construct and maintain any railway or sections of railway in said Dorchester, in such part of said Dorchester Avenue as lies south of Centre Street,

Act void unless, &c.

shall cease and determine, but shall revive in case this act shall become void.

Connection with
Dorchester Rail-
way Company,
&c.

SECTION 11. The Dorchester Extension Railway is hereby authorized to enter upon and run their cars and horses over the track of the Dorchester Railway Company, from their present terminus at Centre Street, to the terminus in the city of Boston, and back to said Centre Street, with power to make, construct and maintain all necessary connections, paying such rate of compensation therefor, as shall be agreed upon from time to time; and in case of disagreement as to such rates or any other matter, the same shall be fixed and determined by three commissioners, to be appointed by the supreme judicial court; but nothing in this section shall impair the power of the selectmen of said town and aldermen of said city to remove the tracks of said Dorchester Railway.

Annual returns,
&c.

SECTION 12. Said corporation shall be deemed to be a railroad corporation so far as to be subject to make such annual returns to the legislature as are, or may be prescribed by law, but not to the other general provisions of law in relation to railroad corporations.

Duration.

SECTION 13. The existence of this corporation shall be limited to fifty years from the passage of this act: *provided*, that the legislature may at any time repeal this act, or limit, restrict or annul any powers herein granted.

Proviso.

SECTION 14. This act shall take effect from and after its passage.

Approved February 18, 1859.

Chap. 44.

AN ACT TO INCORPORATE THE SUFFOLK FIRE INSURANCE COMPANY.
Be it enacted, &c., as follows:

Corporators.

SECTION 1. James H. Lunt, Benjamin C. White, Sewell Tappan, Frederic T. Bush, their associates and successors, are hereby made a corporation by the name of the Suffolk Fire Insurance Company, to be established in the city of Boston, for the purpose of making insurance against losses by fire; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the thirty-seventh and forty-fourth chapters of the Revised Statutes, and in all the other general statutes that have been or may hereafter be enacted, relating to fire insurance companies.

Name.

Location.

Purpose.

Privileges, re-
strictions, &c.

Capital \$200,000.

Shares \$100.

SECTION 2. The said corporation shall have a capital stock of one hundred and fifty thousand dollars, divided into shares of one hundred dollars each, with liberty to pay in and increase the same to the sum of two hundred thousand dollars.

SECTION 3. The said corporation shall have power to make insurance against losses by fire when the sum of one hundred and twenty-five thousand dollars of the said capital shall have been actually paid in, in cash, and not before. Issue of policies.

Approved February 18, 1859.

AN ACT TO INCORPORATE THE READING AND STONEHAM GAS LIGHT COMPANY. *Chap. 45.*

Be it enacted, &c., as follows :

SECTION 1. Lilley Eaton, Thomas Pratt, George O. Carpenter, E. J. Davenport, Alonzo M. Giles, John W. Leighton, John Hill, W. C. Tyler, H. L. Hazleton, John S. Tyler and Henry Davenport, their associates and successors, are hereby made a corporation, by the name of the Reading and Stoneham Gas Light Company, for the purpose of manufacturing and selling gas in the towns of Reading, South Reading, North Reading and Stoneham; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes, and in the two hundred and seventy-sixth chapter of the acts of the year eighteen hundred and fifty-seven. Corporators.
Name.
Purpose.
Location.
Privileges, restrictions, &c.

SECTION 2. Said corporation may take and hold such real and personal estate as may be necessary for the purposes aforesaid; but the whole capital stock thereof shall not exceed two hundred thousand dollars. Whole capital
\$200,000.

SECTION 3. Said corporation, with the consent of the selectmen of the towns aforesaid of Reading, South Reading, North Reading and Stoneham, shall have power and authority to open the ground in any part of the streets, lanes and highways in the said towns, for the purpose of sinking and repairing such mains, pipes and conductors, as it may be necessary to sink for the purpose aforesaid; and the said corporation, after opening the ground in such streets, lanes or highways, shall be held to put the same again into repair, under the penalty of being prosecuted for a nuisance: *provided*, that the said selectmen for the time being, shall have the power to regulate, restrict and control the acts and doings of the said corporation, which may, in any manner, affect the health, safety and convenience of the inhabitants of said towns. May open
ground, &c.
Penalty, &c.
Proviso.

SECTION 4. No shares in the capital stock of the said corporation shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall first be issued. No shares to be
issued under par.

SECTION 5. This act shall take effect from and after its passage.

Approved February 18, 1859.

Chap. 46. AN ACT IN ADDITION TO AN ACT TO INCORPORATE THE SUPERVISORS OF THE ADAMS TEMPLE AND SCHOOL FUND, IN QUINCY.

Be it enacted, &c., as follows :

Act of 1826
amended.

The third section of the fifty-ninth chapter of the acts of the year eighteen hundred and twenty-six, is hereby amended by adding thereto the following words: "And said supervisors are further empowered to hold any real or personal estate, to an amount not exceeding twenty-five thousand dollars, given, bequeathed or devised to them for the charitable purpose of relieving any poor, old or suffering individuals dwelling in said town of Quincy."

Approved February, 18, 1859.

Chap. 47. AN ACT IN ADDITION TO "AN ACT TO INCORPORATE THE TREMONT IMPROVEMENT COMPANY."

Be it enacted, &c., as follows :

May purchase
lands, &c.

Proviso.

Grade, &c.

Privileges, re-
strictions, &c.

Additional capi-
tal.

SECTION 1. The Tremont Improvement Company may purchase and convey any part of certain marsh and vacant lands, situated partly in Roxbury and partly in Boston, on the north-westerly side of Tremont Street, and adjoining the land now owned by them: *provided, however*, the whole amount of land held by said company shall not exceed the number of acres to which they were originally limited by their act of incorporation; and may grade, drain and improve said lands, and hold or divide the same or the proceeds thereof among the stockholders; with all the powers and privileges in regard to such lands, and subject to all the duties, liabilities and restrictions granted to or imposed upon them, by the act of incorporation.

SECTION 2. Said company are hereby authorized to increase their capital stock, by adding thereto a sum not exceeding two hundred thousand dollars, and to invest such portion thereof in real and personal estate, as may be necessary and convenient for the purposes for which they have been incorporated.

SECTION 3. This act shall take effect from and after its passage.

Approved February 18, 1859.

Chap. 48. AN ACT TO EXTEND THE TIME FOR LOCATING AND CONSTRUCTING THE NEW YORK AND BOSTON RAILROAD.

Be it enacted, &c., as follows :

Extended two
years.

The time for locating and constructing the New York and Boston Railroad, is hereby extended two years.

Approved February 18, 1859.

AN ACT TO AUTHORIZE WILLIAM PARSONS, 2D, AND OTHERS TO
EXTEND THEIR NEW WHARF IN GLOUCESTER.

Chap. 49.

Be it enacted, &c., as follows :

William Parsons, 2d, Thomas L. Parsons, Eben Parsons, 2d, and others, proprietors of a wharf designated as the new wharf of said proprietors, in Gloucester, are hereby authorized to extend said new wharf one hundred and fifty feet south-westerly in the direction of said new wharf; and also to extend the said new wharf one hundred feet in a north-westerly direction from low-water mark, being at right angles with said new wharf: *provided, however*, that this act shall in no wise impair the legal rights of any person or corporation.

May extend wharf.

Proviso.

*Approved February 18, 1859.*AN ACT TO INCORPORATE THE WEBSTER INSURANCE COMPANY, OF
BOSTON.

Chap. 50.

Be it enacted, &c., as follows :

SECTION 1. George B. Upton, William F. Weld and James M. Beebe, their associates and successors, are hereby made a corporation by the name of the Webster Insurance Company, to be established in the city of Boston, for the purpose of making insurance against maritime losses and losses by fire; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes, and all other general laws in force relating to insurance companies.

Corporators.

Name.

Location.

Purpose.

Privileges, restrictions, &c.

SECTION 2. The said corporation shall have a capital of five hundred thousand dollars, divided into shares of one hundred dollars each; and may issue policies whenever two hundred and fifty thousand dollars of the capital shall have been paid in, and may hold real estate for its use not exceeding in value one hundred thousand dollars.

Capital \$500,000.

Shares \$100.

Issue of policies.

SECTION 3. This act shall take effect from and after its passage.

*Approved February 18, 1859.*AN ACT TO AUTHORIZE FITZ E. RIGGS AND ANOTHER TO EXTEND
THEIR WHARF IN GLOUCESTER.

Chap. 51.

Be it enacted, &c., as follows :

Fitz E. Riggs and Nathaniel Riggs are hereby authorized to extend their wharf situated on the south-westerly side of Harbor Cove, in Gloucester, a distance not exceeding seventy-five feet in an easterly direction, in the following manner, viz.: beginning at the south-easterly corner of said wharf, thence running seventy-five feet in a line with the southerly side of said wharf; thence ten feet in a north-

May extend wharf.

Proviso.

westerly direction ; thence in a straight line to the north-easterly corner of said wharf: *provided, however*, that this grant shall in no wise impair the legal rights of any person or corporation.

Approved February 18, 1859.

Chap. 52.

AN ACT TO INCORPORATE THE OLD COLONY CORDAGE COMPANY.

Be it enacted, &c., as follows :

Corporators.

SECTION 1. Edward S. Tobey, Charles Soule, Jr., William Sprague, George W. Reed, their associates and successors, are hereby made a corporation by the name of the Old Colony Cordage Company, for the purpose of manufacturing cordage in the town of Plymouth, in the county of Plymouth, and for the sale of the same ; and for this purpose shall have all the powers and privileges, and be subject to all the duties, restrictions and liabilities, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes, and in the two hundred and seventy-sixth chapter of the acts of the year eighteen hundred and fifty-seven.

Capital not to exceed \$100,000.

SECTION 2. The capital stock of said corporation shall not be less than seventy thousand dollars nor more than one hundred thousand dollars ; and said corporation may hold real estate to the amount of forty thousand dollars.

Real estate \$40,000.

No shares to be issued under par.

SECTION 3. No shares in the capital stock of said corporation shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued.

Approved February 18, 1859.

Chap. 53.

AN ACT TO AMEND THE CHARTER OF THE AMERICAN LINEN COMPANY.

Be it enacted, &c., as follows :

Cotton fabrics.

SECTION 1. The American Linen Company, in addition to its other privileges, may manufacture cotton fabrics.

Reduction of shares.

SECTION 2. Said company is hereby authorized to reduce the par value of its shares to four hundred dollars.

Additional shares.

SECTION 3. Said company is authorized to create eight hundred and forty-eight additional shares of four hundred dollars each.

SECTION 4. This act shall take effect from and after its passage.

Approved February 19, 1859.

Chap. 54.

AN ACT IN ADDITION TO AN ACT TO REGULATE THE FISHERY IN NEWBURY.

Be it enacted, &c., as follows :

Act of 1827 amended.

The third section of the one hundred and ninety-fifth chapter of the acts of the year eighteen hundred and thirty-seven, is hereby amended by striking out the words " five

dollars," and inserting in place thereof, the words "one dollar for each fish so taken." *Approved February 19, 1859.*

AN ACT MAKING AN APPROPRIATION FOR THE TRANSPORTATION OF STATE PAUPERS.

Chap. 55.

Be it enacted, &c., as follows :

SECTION 1. The sum of two thousand dollars is hereby appropriated, and shall be paid out of the treasury of the Commonwealth, from the ordinary revenue, upon the warrants of the governor, for the transportation of state paupers during the quarter ending the thirty-first day of March, in the year one thousand eight hundred and fifty-nine. \$2,000 appropriated.

SECTION 2. This act shall take effect from and after its passage. *Approved February 19, 1859.*

AN ACT IN ADDITION TO THE SEVERAL ACTS CONCERNING COURTS OF PROBATE IN THE COUNTY OF DUKES COUNTY.

Chap. 56.

Be it enacted, &c., as follows :

SECTION 1. In addition to the terms of the court of probate now required by law to be held for the county of Dukes county, a court of probate shall be held at Edgartown in said county, on the first Mondays of the months of June and December, and at Tisbury in said county, on the first Mondays of March and September, in each year. Additional terms at Edgartown and Tisbury.

SECTION 2. This act shall take effect from and after its passage. *Approved February 23, 1859.*

AN ACT RELATING TO SCHOOL REPORTS.

Chap. 57.

Be it enacted, &c., as follows :

The school committee of each town shall print the annual report, now required by law, in octavo pamphlet form, of the size of the annual reports of the board of education, and transmit two copies thereof to the secretary of the Commonwealth. Form, &c., of reports; two copies to secretary.

Approved February 23, 1859.

AN ACT TO INCORPORATE THE BROOKLINE HOTEL COMPANY.

Chap. 58.

Be it enacted, &c., as follows :

SECTION 1. Charles Wild, William Aspinwall, George F. Homer and Nathaniel Harris, their associates and successors, are hereby made a corporation by the name of the Brookline Hotel Company, for the purpose of erecting a hotel in the town of Brookline and maintaining such public house, and the buildings and improvements connected therewith; and also for the purpose of providing lodging-houses in said town of Brookline, at moderate rates of payment for accommodation therein; and for these purposes shall have all the powers and privileges, and be subject to all the duties, Corporators. Name. Purpose. Privileges, restrictions, &c.

liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes: *provided, however*, that said corporation shall not carry on the business of hotel-keeping, or be in any way interested in such business.

Proviso.
Real and personal
estate \$200,000.

SECTION 2. The whole amount of real and personal estate or capital stock which said corporation may hold for the purposes aforesaid, shall not exceed two hundred thousand dollars.

SECTION 3. This act shall take effect from and after its passage.

Approved February 23, 1859.

Chap. 59. AN ACT TO AUTHORIZE THE CHICOPEE MANUFACTURING COMPANY TO CHANGE THE PAR VALUE OF ITS SHARES, AND TO ISSUE NEW SHARES.

Be it enacted, &c., as follows :

Change of par
value of shares.

SECTION 1. The Chicopee Manufacturing Company is hereby authorized to change the par value of the shares of its capital stock, to such amount, not less than two hundred and fifty dollars each, as shall be established by vote of the stockholders thereof, at a meeting to be specially called for that purpose, within one year from the passage of this act.

\$300,000 in new
shares.

SECTION 2. Said corporation is also authorized to issue new shares, of the par value so to be established, to an amount not exceeding three hundred thousand dollars in addition to the capital stock now existing; such new shares to be offered to the present stockholders in said corporation, in proportion to the amount of the old stock held by each at the time of the issue of such new shares; and, if not accepted by them, to be disposed of in such manner as shall be prescribed by vote of the corporation.

Disposal of, &c.

SECTION 3. This act shall take effect from and after its passage.

Approved February 26, 1859.

Chap. 60. AN ACT CONCERNING THE SELECTION AND EMPLOYMENT OF TEACHERS IN PUBLIC SCHOOLS.

Be it enacted, &c., as follows :

School commit-
tees to contract
upon satisfactory
evidence of good
character and
ability.

SECTION 1. The school committee of each town shall select and contract with the teachers of the public schools; and they shall require full and satisfactory evidence of the good moral character of all instructors who may be employed, and shall ascertain, by personal examination, their qualification for teaching, and capacity for the government of schools.

SECTION 2. This act shall take effect from and after July first, in the year one thousand eight hundred and fifty-nine.

Approved February 26, 1859.

AN ACT IN ADDITION TO AN ACT TO PROVIDE FOR THE ADOPTION OF CHILDREN. *Chap. 61.**Be it enacted, &c., as follows :*

SECTION 1. The consent of any parent to the adoption of his child, shall not be required under the provisions of the three hundred and twenty-fourth chapter of the acts passed in the year one thousand eight hundred and fifty-one, whenever it shall appear by the petition and shall be proved to the satisfaction of the court, that such parent has wilfully deserted and neglected to provide for the proper care and maintenance of said child, for one year next preceding the filing of the petition ; but the same proceedings may be had on the petition as if such parent were dead.

Consent of parent not required when wilful desertion is proved.

SECTION 2. Whenever any parent shall not consent to the adoption of his child, the court shall order personal notice of the pendency of the petition to be given to such parent, if to be found within the Commonwealth ; and if such parent cannot be found therein, the petition and order of the court thereon shall be published, once a week, for three successive weeks, in such newspaper printed in the county where the petition is pending, as the court shall direct,—the last publication to be at least four weeks before the time appointed for the hearing : and the court may order any further notice that it may deem necessary or proper : and any parent who shall not have had personal notice of said petition, may apply to the supreme judicial court for a reversal of the decree of adoption, at any time within one year after actual notice thereof ; and the said court may, after due notice, reverse said decree, if it shall be proved that the parent applying for a reversal had not so wilfully deserted or neglected to provide for his child.

Upon refusal of parent, court shall give notice of the pendency of the petition.

Parent may apply for reversal of decree, if, &c.

Approved February 26, 1859.

AN ACT RELATING TO PAYING FEES OF WITNESSES.

*Chap. 62.**Be it enacted, &c., as follows :*

SECTION 1. Whenever any witness, required to attend court at any term in behalf of the Commonwealth, shall satisfy the court of his inability to defray the expenses of his attendance, the court shall direct the payment of such portion of his fees as shall have accrued, and may make such further order for the payment of his fees as they shall deem reasonable : and the court may also, at each term thereof, pass any general order which they shall think reasonable, in regard to the payment of the fees of such witnesses.

Witnesses unable to defray the expenses of attendance ; how paid.

SECTION 2. This act shall take effect from and after its passage.

Approved February 26, 1859.

Chap. 63. AN ACT TO EXTEND THE TIME FOR LOCATING AND CONSTRUCTING THE MILFORD AND WOONSOCKET RAILROAD, AND FOR OTHER PURPOSES.

Be it enacted, &c., as follows :

Time for locating, &c., extended. SECTION 1. The time for locating and constructing the Milford and Woonsocket Railroad is hereby extended three years.

Authorized to lease line of New York and Boston Railroad, &c. SECTION 2. The Milford and Woonsocket Railroad Company is hereby authorized to lease of the New York and Boston Railroad Company all or any portion of its line, and to construct and operate the same ; and in case of such construction, to increase its capital stock by the addition of one thousand shares of one hundred dollars each.

May increase capital. SECTION 3. This act shall take effect from and after its passage.

Approved February 26, 1859.

Chap. 64. AN ACT TO INCREASE THE SALARY OF THE ASSISTANT LIBRARIAN AND CLERK OF THE SECRETARY OF THE BOARD OF EDUCATION.

Be it enacted, &c., as follows :

Salary \$1,500. SECTION 1. The salary of the assistant librarian and clerk of the secretary of the board of education shall be fifteen hundred dollars annually, to be paid quarterly.

SECTION 2. This act shall take effect from and after its passage.

Approved February 26, 1859.

Chap. 65. AN ACT TO CONFIRM THE REDUCTION OF THE CAPITAL STOCK OF THE BOSTON AND SANDWICH GLASS COMPANY.

Be it enacted, &c., as follows :

Reduction of capital confirmed. SECTION 1. The reduction of the capital stock of the Boston and Sandwich Glass Company, to four hundred thousand dollars, is hereby ratified and confirmed.

Shares \$80. SECTION 2. The par value of the shares in said corporation shall be eighty dollars.

May increase capital \$100,000. SECTION 3. Said corporation may increase its capital stock one hundred thousand dollars, upon a vote of two-thirds of the stockholders thereof.

Subject to existing statutes. SECTION 4. Said corporation shall be subject to the provisions of the thirty-eighth and forty-fourth chapters of the Revised Statutes ; and when the certificate required by the twentieth section of said thirty-eighth chapter, shall have been made and recorded in pursuance of law, no stockholder therein shall be personally liable for its debts thereafter contracted, except in accordance with the provisions of said chapter.

SECTION 5. This act shall take effect from and after its passage.

Approved February 26, 1859.

AN ACT TO INCORPORATE THE MASSACHUSETTS UNIVERSALIST CONVENTION.

Chap. 66.

Be it enacted, &c., as follows :

SECTION 1. John D. W. Joy, R. Tomlinson, A. A. Miner, E. G. Brooks, John G. Adams, Charles Foster, E. C. Rolfe, J. D. Pierce, Albert Metcalf, their associates and successors, are hereby made a corporation, by the name of the Massachusetts Universalist Convention; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes: and said corporation may hold real and personal estate to the value of fifty thousand dollars, to be devoted exclusively to the diffusion of knowledge of Christianity, by the means of publications, missionary labors or otherwise.

Corporators.

Name.

Privileges, restrictions, &c.

Real and personal estate \$50,000.

SECTION 2. The Massachusetts Universalist Home Missionary Society, a corporation by the one hundred sixty-eighth chapter of the acts of the year eighteen hundred and fifty-one, is hereby authorized to transfer all its rights, interests and property, to the corporation hereby created: *provided, however*, that the society aforesaid, at a meeting to be regularly called, in the manner provided by the present by-laws of the same, a notice of which meeting shall state that this act is to be submitted to the members thereof, shall vote to act upon the authority hereby granted; and the corporation hereby created, in case such action is taken by the said society, shall take the place thereof, and succeed to all its rights, interests, obligations and liabilities; and chapter one hundred and sixty-eight, of the acts of the year eighteen hundred and fifty-one, is hereby repealed, upon their acceptance of this act.

Property, &c., of former society transferred, &c.

Proviso.

SECTION 3. All donations, devises and bequests, of real and personal property, which have been made to the Massachusetts Universalist Home Missionary Society, upon being transferred to the corporation hereby created, in accordance with the provisions of this act, shall be appropriated to missionary purposes.

Donations, &c., made to former society, transferred, &c.

Approved February 26, 1859.

AN ACT RELATING TO DAMAGES FROM ALTERATIONS IN HIGHWAYS.

Chap. 67.

Be it enacted, &c., as follows :

When damages are claimed by reason of any lowering, raising, or other act, done for the purpose of repairing any highway or town way, under the provisions of the twenty-fifth chapter of the Revised Statutes, the proceedings shall be as follows :

Damages claimed under provisions of 25th chap. Rev. Stat.

Petitions when to be filed.

First—The person or corporation claiming damages, shall file a petition therefor, with the selectmen, board of aldermen, or mayor and aldermen, after the commencement and within one year after the completion of the labor of repairing, for which damages are claimed.

Award or refusal.

Second—The selectmen, board of aldermen, or mayor and aldermen, shall either award damages, or refuse the prayer therefor, within six months after the petition shall be filed.

Jury may determine damages when, &c.

Third—At any time within a year after the expiration of said six months, if the petitioner be aggrieved, either by the estimate of his damages, or by refusal or neglect on the part of the selectmen, board of aldermen, or mayor and aldermen, to estimate the same, he may apply for a jury and have his damages ascertained, in like manner, in all respects, as they are ascertained in the case of land taken in laying out highways.

Committee may determine damages upon agreement, &c.

Fourth—By agreement with the parties adversely interested, the petitioner may have his damages determined by a committee, to be appointed under the direction of the commissioners, in any county other than Suffolk, and in Suffolk by the superior court: *provided, however*, that the application for such committee shall be made within the time limited for applying for a jury.

Proceedings in other respects.

Fifth—In respects not specified in this act, the proceedings shall be such as are had in cases of land taken in laying out highways.

Approved February 26, 1859.

Chap. 68.

AN ACT IN ADDITION TO AN ACT CONCERNING THE BRUSH HILL TURNPIKE CORPORATION.

Be it enacted, &c., as follows:

Time limited for laying out as a highway.

The time within which that portion of the Brush Hill Turnpike, which is within the limits of the town of Milton, may be laid out as a town way or highway, under the provisions of an act entitled “An Act concerning the Brush Hill Turnpike Corporation,” passed in the year eighteen hundred and fifty-seven, is hereby limited to one year from the passage of this act.

Approved February 26, 1859.

Chap. 69.

AN ACT IN RELATION TO ASSIGNEES OF INSOLVENT DEBTORS.

Be it enacted, &c., as follows:

Consent of judge of probate necessary to removal of assignee.

No assignee or assignees appointed or chosen under the laws of this Commonwealth for the relief of insolvent debtors, and for the more equal distribution of their effects, shall be removed, unless the judge of probate and insolvency for the county where such proceedings are pending, shall consent thereto.

Approved March 1, 1859.

AN ACT RESPECTING THE SINKING FUNDS OF THE TROY AND GREENFIELD RAILROAD COMPANY, AND THE NORWICH AND WORCESTER RAILROAD COMPANY. *Chap. 70.*

Be it enacted, &c., as follows :

SECTION 1. The provisions of the one hundredth chapter of the acts of the year one thousand eight hundred and fifty-eight, shall apply to the sinking fund of the Troy and Greenfield Railroad Company; also to the sinking fund of the Norwich and Worcester Railroad Company. Chap. 100, acts of 1858 to apply.

SECTION 2. All acts, or parts of acts, inconsistent with the provisions of this act, are hereby repealed. Repeal.

SECTION 3. This act shall take effect from and after its passage.

Approved March 1, 1859.

AN ACT TO INCORPORATE THE AMERICAN FLAX COTTON COMPANY. *Chap. 71.*

Be it enacted, &c., as follows :

SECTION 1. Samuel Nicolson, Alfred B. Hall, Charles B. Darling, their associates and successors, are hereby made a corporation, by the name of the American Flax Cotton Company, with authority to establish a manufactory in the town of Watertown and county of Middlesex, for the purpose of manufacturing from flax, hemp, or other similar fibrous plants, a material resembling cotton and the various fabrics composed of the same, and for manufacturing machines and machinery therefor, and selling the same; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes, and in the two hundred and seventy-sixth chapter of the acts of the year eighteen hundred and fifty-seven. Corporators.
Name.
Purpose.
Privileges, restrictions, &c.

SECTION 2. Said corporation may hold real estate to the amount of fifty thousand dollars for the purposes aforesaid; and the whole capital stock thereof shall not exceed two hundred and fifty thousand dollars, which shall be divided into shares of one hundred dollars each: *provided, however*, that this corporation shall not go into operation until there has been paid in, in cash, the sum of fifty thousand dollars. Real estate \$50,000.
Capital \$250,000
Shares \$100.
Proviso.

SECTION 3. This act shall take effect from and after its passage.

Approved March 1, 1859.

AN ACT TO INCORPORATE THE AMERICAN CORDAGE AND WEBBING COMPANY. *Chap. 72.*

Be it enacted, &c., as follows :

SECTION 1. Frederic F. Hassam, Charles Edmunds, George H. Vincent, Edward Jones, their associates and successors, are hereby made a corporation, by the name of the American Cordage and Webbing Company, for the purpose Corporators
Name.
Purpose

Privileges, restrictions, &c.

of manufacturing cordage and webbing in the town of Dorchester, in the county of Norfolk; and for this purpose, shall have all the powers and privileges, and be subject to all the duties, liabilities and restrictions, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes, and in the two hundred and seventy-sixth chapter of the acts of the year eighteen hundred and fifty-seven.

Real estate
\$50,000.

Capital \$100,000.

Shares \$100.

SECTION 2. Said corporation may, for the purposes aforesaid, hold real estate to the amount of fifty thousand dollars; and the whole capital stock thereof shall not exceed one hundred thousand dollars, which shall be divided into shares of one hundred dollars each.

SECTION 3. This act shall take effect from and after its passage.

Approved March 1, 1859.

Chap. 73.

AN ACT TO INCORPORATE THE MASTER, WARDENS AND MEMBERS OF THE GRAND LODGE OF MASONS IN MASSACHUSETTS.

Be it enacted, &c., as follows:

Corporators.

SECTION 1. John T. Heard, grand master, and his associates, the grand wardens and members of the voluntary association known as the Grand Lodge of Free and Accepted Masons in Massachusetts, and their successors, are hereby incorporated and made a body politic, by the name of the Master, Wardens and Members of the Grand Lodge of Masons in Massachusetts, for the purpose of managing and administering the charity funds belonging to said voluntary association, with power to have a common seal, to sue and be sued, to make and ordain, from time to time, by-laws, rules and regulations for the government and management of the corporation; *provided*, the same be not repugnant to the constitution and laws of this Commonwealth; and that they have all the privileges, and be subject to all the liabilities set forth in the forty-fourth chapter of the Revised Statutes, so far as the same are applicable to corporations for charitable purposes.

Name.

Purpose.

Power.

Proviso.

Real and personal estate,
\$250,000.

SECTION 2. The said corporation may take by purchase, gift, grant or otherwise, and hold, real estate not exceeding the value of two hundred thousand dollars, and personal estate not exceeding the value of fifty thousand dollars.

Meeting, how called, &c.

SECTION 3. John T. Heard is hereby authorized to call the first meeting of said corporation, by advertisement in two newspapers printed in Boston, one week previous thereto, and appoint the time and place thereof, at which meeting the mode of calling future meetings shall be regulated.

SECTION 4. This act shall take effect on and after its passage.

Approved March 1, 1859.

AN ACT RELATING TO A CHANNEL CALLED THE "ROXBURY CANAL."

Chap. 74.

Be it enacted, &c., as follows :

SECTION 1. No vessel entering into, or being in the channel, situated partly in Roxbury and partly in Boston, known as the "Roxbury Canal," shall occupy such a position therein, as unnecessarily or unreasonably to obstruct the passage of any other vessel in said channel; and for every offence against the provisions of this section, the master, commander or owners of such vessel so obstructing as aforesaid, or either of them, shall be subject to a penalty not exceeding ten dollars for each and every offence.

No vessel to obstruct the passage of another.

Penalty.

SECTION 2. Any person who shall, in any manner not mentioned in the preceding section, unreasonably or unnecessarily obstruct the passage of any vessel in said channel, shall be subject to a penalty not exceeding ten dollars for each and every offence.

Penalty.

SECTION 3. The harbor master, who may be elected as hereinafter mentioned, may order the position of any vessel, lying or being in said channel, to be changed so that any other vessel may conveniently pass therein; and the master or commander of any vessel who shall neglect or refuse to obey any such order of said harbor master, shall be subject to a penalty not exceeding ten dollars for each and every offence.

Harbor master may order change of position.

Penalty for refusal.

SECTION 4. The city council of the city of Roxbury may, if they shall deem it expedient, annually elect, by a concurrent vote of both branches, a harbor master, who shall hold his office for one year, and until another shall be appointed in his place, or until he shall be removed by the city council; and before entering upon the duties of his office, he shall give a bond to said city of Roxbury, with sufficient sureties, to the satisfaction of the mayor and aldermen of said city of Roxbury, in such penal sum as said mayor and aldermen shall direct, conditioned for the faithful discharge of the duties of said office; and in case of the sickness or disability of said harbor master, he may appoint a deputy, subject to the approval of said mayor and aldermen, to perform his duties during said sickness or disability; and said harbor master shall be allowed and paid quarterly, out of the city treasury, such salary for his services as the city council shall, from time to time, establish.

City council of Roxbury to elect a harbor master.

Shall give bond, &c.

Appointment of deputy.

SECTION 5. It shall be the duty of said harbor master to enforce the execution of the several provisions of this act, and all other laws of the Commonwealth, relating to said channel.

Duty of harbor master.

Penalty for obstructing in the performance of his duty.

SECTION 6. Any person who shall obstruct said harbor master in the performance of any of his duties, or shall neglect or refuse to obey any lawful order made by said harbor master, shall be subject to a penalty not exceeding ten dollars for every offence.

Penalties to inure, &c.

SECTION 7. All the several penalties mentioned in this act, shall inure to the use of said city of Roxbury, and may be prosecuted for and recovered, before the police court of the city of Roxbury, by complaint or information, in the name of the Commonwealth, in the same way and manner in which other criminal offences are now prosecuted; reserving, however, in all cases, to any party convicted, the right of appeal from the judgment and sentence of said court, to the court of common pleas, next after such conviction, to be held within and for the county of Norfolk; and the appeal shall be allowed on the same terms, and the proceedings therein conducted in the same form and manner as are by law provided, in respect to appeals from the judgment and sentence of said police court in criminal cases.

Right of appeal.

Approved March 1, 1859.

Chap. 75.

AN ACT TO INCORPORATE THE GLOBE FIRE AND MARINE INSURANCE COMPANY.

Be it enacted, &c., as follows:

Corporators.

SECTION 1. Eben Howes, Isaac Thacher, Nathan Crowell and Aaron Hobart, junior, their associates and successors, are hereby made a corporation, by the name of the Globe Fire and Marine Insurance Company, in the city of Boston, for the purpose of making insurance against maritime losses and losses by fire; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the thirty-seventh and forty-fourth chapters of the Revised Statutes, and in all general acts subsequently passed, or which may be passed hereafter, relating to insurance companies.

Name.

Purpose

Privileges, restrictions, &c.

Capital \$150,000.

Shares \$100.

SECTION 2. The said corporation shall have a capital stock of one hundred and fifty thousand dollars, divided into shares of one hundred dollars each, with liberty to pay in and increase the same to any amount not exceeding two hundred and fifty thousand dollars; and may hold real estate for its own use to the value of fifty thousand dollars.

Policies issued when \$100,000 is paid in.

SECTION 3. The said corporation may issue policies whenever one hundred thousand dollars of its capital shall have been subscribed and paid in, in cash.

SECTION 4. This act shall take effect from and after its passage.

Approved March 1, 1859.

AN ACT IN ADDITION TO AN ACT TO INCORPORATE THE FIRST CONGREGATIONAL SOCIETY IN LEOMINSTER.

Chap. 76.

Be it enacted, &c., as follows :

SECTION 1. The First Congregational Society, in Leominster, are hereby authorized to avail themselves of the provisions of chapter two hundred and thirteen, of the acts of the year eighteen hundred and forty-five.

Act of 1845.
May be availed of.

SECTION 2. This act shall take effect from and after its passage.

Approved March 3, 1859.

AN ACT MAKING APPROPRIATIONS FOR THE MAINTENANCE OF THE GOVERNMENT DURING THE CURRENT YEAR.

Chap. 77.

Be it enacted, &c., as follows :

SECTION 1. The sums hereinafter mentioned are appropriated, and shall be allowed and paid out of the treasury of this Commonwealth, from the ordinary revenue, upon the warrants of the governor, for the purposes specified, to meet the current expenses of the year ending on the thirty-first day of December, one thousand eight hundred and fifty-nine, that is to say :

Appropriations
for 1859.

For the mileage and compensation of the lieutenant-governor and council, a sum not exceeding eight thousand dollars.

Lieutenant-governor and council.

For the salaries of the clerks of the senate and house of representatives, including the compensation of such assistants as they may appoint, four thousand dollars.

Clerks of legislature.

For the salaries of the chaplains of the senate and house of representatives, four hundred dollars.

Chaplains.

For fees of witnesses summoned before committees, in accordance with the provisions of the acts of one thousand eight hundred and forty-nine, chapter two hundred and eight, a sum not exceeding five hundred dollars.

Witnesses.

For the compensation of the preacher of the election sermon, one hundred dollars.

Preacher.

For stationery for the senate, purchased by the clerk of the senate, a sum not exceeding one thousand one hundred dollars.

Stationery.
Senate.

For stationery for the house of representatives, purchased by the clerk of the house of representatives, a sum not exceeding two thousand dollars.

House.

For the compensation of the messenger to the governor and council, eight hundred dollars.

Messenger to governor and council.

For the compensation of the assistant-messenger to the governor and council, three hundred and sixty-five dollars.

Assistant.

For the compensation of the door-keepers, messengers and pages of the senate and house of representatives, and of

Door-keepers,
messengers, &c.

such watchmen and firemen as may be employed in the state house, a sum not exceeding seven thousand seven hundred dollars.

Committees of legislature. For the authorized expenses of committees of the legislature, a sum not exceeding three hundred dollars.

Justices court of common pleas. For the salary of the chief justice of the court of common pleas, two thousand seven hundred dollars.

For the salaries of six associate justices of said court, fifteen thousand dollars.

Judges probate and insolvency. Suffolk. For the salary of the judge of probate and insolvency for the county of Suffolk, three thousand dollars.

Middlesex. For the salary of the judge of probate and insolvency for the county of Middlesex, two thousand dollars.

Worcester. For the salary of the judge of probate and insolvency for the county of Worcester, eighteen hundred dollars.

Essex. For the salary of the judge of probate and insolvency for the county of Essex, fifteen hundred dollars.

Norfolk. For the salary of the judge of probate and insolvency for the county of Norfolk, fourteen hundred dollars.

Bristol. For the salary of the judge of probate and insolvency for the county of Bristol, eleven hundred dollars.

Plymouth. For the salary of the judge of probate and insolvency for the county of Plymouth, one thousand dollars.

Berkshire. For the salary of the judge of probate and insolvency for the county of Berkshire, eight hundred dollars.

Hampden. For the salary of the judge of probate and insolvency for the county of Hampden, eight hundred dollars.

Barnstable. For the salary of the judge of probate and insolvency for the county of Barnstable, seven hundred dollars.

Hampshire. For the salary of the judge of probate and insolvency for the county of Hampshire, six hundred and fifty dollars.

Franklin. For the salary of the judge of probate and insolvency for the county of Franklin, six hundred dollars.

Nantucket. For the salary of the judge of probate and insolvency for the county of Nantucket, three hundred dollars.

Dukes County. For the salary of the judge of probate and insolvency for the county of Dukes county, two hundred and fifty dollars.

Registers of prob. and insolvency. and ass'ts. Suffolk. For the salary of the register of probate and insolvency for the county of Suffolk, three thousand dollars.

Suffolk. For the salary of the assistant register for the county of Suffolk, fifteen hundred dollars.

Middlesex. For the salary of the register of probate and insolvency for the county of Middlesex, fifteen hundred dollars.

For the salary of the assistant register for the county of Middlesex, one thousand dollars.

For the salary of the register of probate and insolvency Worcester.
for the county of Worcester, fifteen hundred dollars.

For the salary of the assistant register for the county of Worcester, one thousand dollars.

For the salary of the register of probate and insolvency Essex.
for the county of Essex, fifteen hundred dollars.

For the salary of the assistant register for the county of Essex, eight hundred dollars.

For the salary of the register of probate and insolvency Norfolk.
for the county of Norfolk, one thousand dollars.

For the salary of the assistant register for the county of Norfolk, six hundred dollars.

For the salary of the register of probate and insolvency Bristol.
for the county of Bristol, thirteen hundred dollars.

For the salary of the register of probate and insolvency Plymouth.
for the county of Plymouth, one thousand dollars.

For the salary of the register of probate and insolvency Hampden.
for the county of Hampden, eight hundred dollars.

For the salary of the register of probate and insolvency Berkshire.
for the county of Berkshire, eight hundred dollars.

For the salary of the register of probate and insolvency Hampshire.
for the county of Hampshire, seven hundred and fifty dollars.

For the salary of the register of probate and insolvency Franklin.
for the county of Franklin, seven hundred dollars.

For the salary of the register of probate and insolvency Barnstable.
for the county of Barnstable, seven hundred dollars.

For the salary of the register of probate and insolvency Nantucket.
for the county of Nantucket, three hundred dollars.

For the salary of the register of probate and insolvency Dukes County.
for the county of Dukes county, two hundred and seventy-five dollars.

For certain expenses of the courts of insolvency, authorized by section twenty-three of chapter two hundred and eighty-four of the acts of the year one thousand eight hundred and fifty-six, or similar accounts for the courts of probate and insolvency, a sum not exceeding three thousand dollars. Expenses of courts of probate and insolvency.

For the salary of the attorney-general, two thousand five hundred dollars. Attorney-General.

For clerk hire in the office of the attorney-general, a sum not exceeding one thousand dollars. Clerk.

For incidental expenses in the office of the attorney-general, a sum not exceeding one hundred dollars. Incidentals.

For fees, costs, court expenses, and other like charges of the attorney-general, in accordance with the provisions of the act of the year one thousand eight hundred and thirty- Fees, costs, &c., of attorney-general.

nine, chapter twenty-eight, a sum not exceeding three hundred dollars.

Attorney, Suffolk.	For the salary of the attorney for the county of Suffolk, three thousand dollars.
Assistant attorney.	For the salary of the assistant-attorney for the county of Suffolk, one thousand eight hundred dollars.
District attorney. Eastern.	For the salary of the district-attorney for the eastern district, one thousand five hundred dollars.
Northern.	For the salary of the district-attorney of the northern district, one thousand five hundred dollars.
Southern.	For the salary of the district-attorney of the southern district, one thousand five hundred dollars.
Middle.	For the salary of the district-attorney of the middle district, one thousand three hundred dollars.
South-eastern.	For the salary of the district-attorney of the south-eastern district, one thousand five hundred dollars.
Western.	For the salary of the district-attorney of the western district, one thousand two hundred dollars.
North-western.	For the salary of the district-attorney of the north-western district, eight hundred dollars.
Reporter S. J. C. decisions.	For the salary of the reporter of the decisions of the supreme judicial court, three hundred dollars.
Secretary.	For the salary of the secretary of the Commonwealth, two thousand dollars.
Clerks.	For the salary of the first clerk in the secretary's office, one thousand five hundred dollars.
	For the salary of the second clerk in the secretary's office, one thousand two hundred dollars.
	For such additional clerical assistance as the secretary may find necessary for the performance of the duties of the office, a sum not exceeding fourteen thousand dollars.
Publication of bank abstracts.	For the payment for the weekly and monthly publication of bank returns, in accordance with the second and fourth sections of the act of the year one thousand eight hundred and fifty-four, chapter three hundred and seven, a sum not exceeding five hundred dollars.
Incidentals.	For incidental expenses of the secretary's office, a sum not exceeding three thousand two hundred dollars.
Treasurer.	For the salary of the treasurer and receiver-general, two thousand dollars.
Clerks.	For the salary of the first clerk in the treasurer's office, one thousand five hundred dollars.
	For the salary of the second clerk in the treasurer's office, one thousand two hundred dollars.
	For incidental expenses of the treasurer's office, a sum not exceeding three hundred dollars.

For the salary of the auditor of accounts, two thousand dollars. Auditor.

For the salary of the clerk of the auditor of accounts, one thousand two hundred dollars. Clerk.

For incidental expenses of the auditor's office, a sum not exceeding one hundred and fifty dollars. Incidentals.

For such additional clerical assistance as the auditor may find necessary, a sum not exceeding eleven hundred dollars: for the purchase of a burglar-proof safe for the auditor's office, a sum not exceeding three hundred dollars.

For the salary of the sergeant-at-arms, one thousand three hundred dollars. Sergeant-at-arms.

For printing such number, not exceeding one hundred and fifty thousand, of the pamphlet edition of the general acts and resolves of the present year, for distribution of one copy thereof to each family, or each eight persons in the Commonwealth, in accordance with the provisions of chapter eighty-eight of the resolves of the year eighteen hundred and forty-seven, and chapter eighty-nine of the resolves of the year eighteen hundred and fifty, a sum not exceeding six thousand dollars. Printing general laws.

For printing two thousand copies of the blue book edition of the acts and resolves of the present year, with the governor's messages and other matters in the usual form, but not including the constitution, a sum not exceeding one thousand dollars. Printing blue books.

For the publication of the general laws, and all other information intended for the public, in accordance with the provisions of chapter twenty-four of the resolves of the year one thousand eight hundred and fifty-seven, three hundred dollars. Publication of general laws.

For the purchase, by the secretary of the Commonwealth, of blanks for the use of cities and towns, in the registration of births, marriages and deaths, a sum not exceeding two hundred dollars. Registration blanks.

For fuel and lights for the State House, a sum not exceeding two thousand dollars; and such sum shall be disbursed under the direction of the commission provided in the acts of the year one thousand eight hundred and fifty-seven, chapter sixty-five. State house. Fuel and light.

For repairs, improvements and furniture of the state house, to be disbursed in the manner provided in the acts of the year one thousand eight hundred and fifty-seven, chapter sixty-five, a sum not exceeding one thousand dollars. Repairs, &c.

For contingent expenses of the council, senate and house of representatives, to be disbursed in the manner provided Contingent expenses.

Proviso.

in the acts of the year one thousand eight hundred and fifty-seven, chapter sixty-five, a sum not exceeding one thousand five hundred dollars: *provided*, that no part of such sum shall be expended for stationery, postage, printing, repairs or furniture, or for the purchase of any article or thing, or to effect any object, for which an appropriation is otherwise made in this act, or in any act which may be passed subsequently.

Postage, &c.,
governor and
council.

For postage, printing and stationery, for the governor and council, a sum not exceeding five hundred dollars.

Printing, &c., for
legislature.

For printing and binding, ordered by the senate or house of representatives, or by the concurrent order of the two branches, in accordance with the fifteenth of the joint rules and orders of the two branches, a sum not exceeding ten thousand dollars.

For printing blanks and circulars, and the calendar of orders of the day, required for the use of the senate, under the direction of the clerk of the senate, a sum not exceeding four hundred dollars.

For printing blanks and circulars, and the calendar of orders of the day, required for the use of the house of representatives, under the direction of the clerk of the house of representatives, a sum not exceeding seven hundred dollars.

Printing public
documents.

For printing the public series of documents in the last quarter of the year one thousand eight hundred and fifty-nine, under the direction of the secretary of the Commonwealth, according to the acts of the year one thousand eight hundred and fifty-seven, chapter forty, and the acts of the year one thousand eight hundred and fifty-eight, chapter forty-six, and the acts of the year one thousand eight hundred and fifty-eight, chapter twenty-two, and for binding the copies to be distributed to the towns and cities, a sum not exceeding seven thousand dollars.

Sheriffs distribu-
ting blanks, &c.

To the sheriffs of the several counties for distributing blanks and making returns of votes, in accordance with the Revised Statutes, chapter six, section ten, a sum not exceeding eight hundred dollars.

Bank commis-
sioners.

For the mileage and compensation of the bank commissioners, a sum not exceeding five thousand eight hundred dollars.

Clerk.

For the salary of the clerk of the bank commissioners, one thousand four hundred dollars.

Incidentals.

For the incidental expenses of the bank commissioners, a sum not exceeding three hundred dollars.

For the compensation and expenses of the board of insurance commissioners, a sum not exceeding four thousand dollars.

Insurance com-
missioners.

To continue the printing of the New Plymouth Records, under the direction of the secretary of the Commonwealth, a sum not exceeding four thousand dollars.

New Plymouth
Records.

For continuing the copying of the New Plymouth Records, and superintending the printing of the same, a sum not exceeding eleven hundred dollars.

CHARITABLE.

For the Perkins Institution and Massachusetts Asylum for the Blind, in accordance with the resolves of the year one thousand eight hundred and fifty-five, chapter sixty-two, twelve thousand dollars.

Asylum for Blind

For the Massachusetts School for Idiotic and Feeble-minded Youth, in accordance with the resolves of the year one thousand eight hundred and fifty-one, chapter forty-four, five thousand dollars.

School for Idiots.

For the support of patients from Massachusetts, in the Asylum for the Deaf and Dumb, at Hartford, in the state of Connecticut, a sum not exceeding eight thousand six hundred dollars.

Deaf and Dumb.

For the annuities due from the Commonwealth in respect to the obligations incurred by the acceptance of the bequests of the late Martha Johannot, a sum not exceeding one thousand seven hundred and forty dollars.

Annuities, Mar-
tha Johannot.

For pensions, a sum not exceeding seven hundred dollars.

Pensions.

To the sinking fund, for the redemption of the scrip issued to obtain means for building the state almshouses, six thousand dollars.

Almshouse sink-
ing fund.

SCIENTIFIC AND EDUCATIONAL.

For bounties to agricultural societies, twelve thousand dollars.

Bounties to Agri-
cultural soci-
eties.

For the salary of the secretary of the state board of agriculture, one thousand five hundred dollars.

Secretary and
members board
of agriculture.

For the travelling expenses of members of said board, a sum not exceeding twelve hundred dollars.

For the travelling expenses of the secretary of said board, all postages and necessary expenses, in accordance with the resolves of the year one thousand eight hundred and fifty-three, chapter sixty-seven, a sum not exceeding two hundred and fifty dollars.

For other incidental expenses of said board, a sum not exceeding one hundred and fifty dollars.

Clerk. For the salary of the clerk of the secretary of said board, six hundred dollars.

Information. For collecting information on agricultural subjects, one thousand dollars.

Printing abstracts and report. For printing abstracts of the reports of the board of agriculture, and of information on agricultural subjects, and the distribution of the same, one thousand dollars.

For printing ten thousand copies of the report of the board of agriculture, a sum not exceeding five thousand five hundred dollars.

MILITARY.

Adjutant-general. For the salary of the adjutant and quartermaster-general, one thousand eight hundred dollars.

Clerk. For the salary of the clerk of the adjutant-general, one thousand dollars.

Incidentals. For the incidental expenses of the office of the adjutant-general, a sum not exceeding two hundred and fifty dollars.

Adjutant-general's department. For the expenses of the adjutant and quartermaster-general's department, a sum not exceeding four thousand dollars.

Military bounty and accounts. For military bounty, a sum not exceeding forty-two thousand seven hundred dollars.

For military accounts, a sum not exceeding five thousand six hundred and twenty-five dollars.

Armories. For the rent of armories, a sum not exceeding twelve thousand dollars.

REFORMATORY AND CORRECTIONAL.

Arrest of fugitives. For the expenses of the arrest of fugitives from justice, a sum not exceeding one thousand five hundred dollars.

Agent discharged convicts. For the salary of the agent for the relief of discharged convicts, a sum not exceeding five hundred dollars.

Expenses. For the expenditures of said agent, in accordance with the provisions of the two hundred and thirteenth chapter of the acts of the year one thousand eight hundred and fifty-two, a sum not exceeding five hundred dollars, in addition to such sums as he may receive from the warden of the state prison, in accordance with chapter one hundred and forty-four, section fifty-three, of the Revised Statutes.

Industrial school. For the current expenses of the state industrial school for girls, at Lancaster, a sum not exceeding thirteen thousand dollars.

For the support of the Massachusetts state prison, in addition to the ordinary receipts of the institution, a sum not exceeding fifteen thousand dollars. State prison.

SECTION 2. This act shall take effect from and after its passage.

Approved March 4, 1859.

AN ACT CONCERNING THE CHESHIRE RAILROAD COMPANY.

Chap. 78.

Be it enacted, &c., as follows:

SECTION 1. The Cheshire Railroad Company, for the purpose of paying, or arranging and deferring its present indebtedness, may issue their bonds to an amount not exceeding eight hundred and fifty thousand dollars, and dispose of the same on such terms as they shall deem expedient. May issue
\$850,000 of
bonds.

SECTION 2. Said company are hereby authorized to mortgage to three trustees, and to the survivors or survivor of them, and each of them, and to their successors, to secure the payment of their bonds aforesaid, if they shall deem it expedient, their railroad, with all their lands and buildings held by them for the use and accommodation of said road, and of the business of the same, and all the locomotives, cars of all descriptions, tools, machinery and implements used in working and running said road, and in connection therewith, and all additions made thereto, by adding new locomotives, cars, tools, machinery and other things, required in the business of said road, and also all the franchise, rights and privileges now held and enjoyed by said corporation in this Commonwealth; and said mortgage may be on such terms and conditions, and with such powers to the mortgagees, of operating or selling said road and other property mortgaged, as to the company may seem expedient. Mortgage of rail-
road, &c., for
payment of
bonds.

SECTION 3. Any mortgage, made as aforesaid, shall be recorded in the registry of deeds in the county of Worcester, and in the clerk's office of the town of Winchendon, in said county. Mortgage to be
recorded.

SECTION 4. This act shall be subject to the provisions of an act entitled "An Act to authorize Railroad Companies to issue Bonds," approved April thirteenth, in the year eighteen hundred and fifty-four, and of an act entitled "An Act relating to Trustees under Railroad Mortgages," approved May, eighteen hundred and fifty-seven, so far as the same shall be applicable thereto. Subject to for-
mer acts.

SECTION 5. This act shall take effect from and after its acceptance by said company.

Approved March 5, 1859.

Chap. 79. AN ACT TO INCORPORATE THE PROPRIETORS OF GRACE CHURCH, IN SALEM.

Be it enacted, &c., as follows :

SECTION 1. Benjamin Shreve, John Calef, John S. Jones, John R. Lee, David P. Ives, their associates and successors, are hereby made a corporation, by the name of the Proprietors of Grace Church, in Salem; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes, and in that part of the twentieth chapter of said statutes which relates to the proprietors of churches and meeting-houses; with power to hold real and personal estate, to an amount, including their buildings and land under and appurtenant to the same, not exceeding in value the sum of twenty thousand dollars: *provided*, the income thereof be appropriated exclusively to parochial purposes.

Corporators.

Name.

Privileges, restrictions, &c.

Real and personal estate, \$20,000.

SECTION 2. This act shall take effect from and after its passage.

Approved March 5, 1859.

Chap. 80. AN ACT IN ADDITION TO "AN ACT PROVIDING FOR THE ELECTION OF SCHOOL COMMITTEES."

Be it enacted, &c., as follows :

SECTION 1. That portion of the third section of the two hundred and seventieth chapter of the acts of eighteen hundred and fifty-seven, expressed in the following words, "provided, any person elected or appointed to fill any vacancy as aforesaid, shall hold office only during the term for which his predecessor was elected," is hereby repealed.

Tenure of office.

SECTION 2. This act shall take effect from and after its passage.

Approved March 5, 1859.

Chap. 81. AN ACT RELATING TO FUGITIVES FROM JUSTICE.

Be it enacted, &c., as follows :

SECTION 1. No executive warrant for the arrest and surrender of any person, demanded by the executive authority of any other State or Territory, as a fugitive from the justice of such State or Territory, and no requisition upon the executive authority of any other State or Territory for the surrender of any person as a fugitive from the justice of this Commonwealth, shall be issued, unless the requisition from the executive authority of such other State or Territory, or the application for such requisition upon the executive authority of such other State or Territory, shall be accompanied by sworn evidence that the party charged is a fugitive from justice, and by a duly attested copy of an indictment, or a duly attested copy of a complaint, made before a court

Applications and requisitions for arrest to be accompanied by sworn evidence that the party charged is a fugitive.

or magistrate authorized to receive the same ; such complaint to be accompanied by affidavits to the facts constituting the offence charged, by persons having actual knowledge thereof: *provided, however*, that nothing herein shall be construed to require the governor to issue a warrant, or a requisition, as aforesaid, upon the evidence aforesaid, nor to prevent his requiring any other or further evidence in support of such demand or application. Proviso.

SECTION 2. This act shall take effect from and after its passage.

Approved March 5, 1859.

AN ACT IN RELATION TO THE MASSACHUSETTS MEDICAL SOCIETY.

Chap. 82.

Be it enacted, &c., as follows :

SECTION 1. No person shall hereafter become a member of the Massachusetts Medical Society, except upon examination by the censors of said society ; and any person of good moral character, found to possess the qualifications prescribed by the rules and regulations of said society, shall be admitted a fellow of said society. Qualification for membership.

SECTION 2. This act shall take effect from and after its passage.

Approved March 5, 1859.

AN ACT TO CONFIRM THE ORGANIZATION AND PROCEEDINGS OF THE NORTH BAPTIST SOCIETY, IN DORCHESTER.

Chap. 83.

Be it enacted, &c., as follows :

SECTION 1. The organization of the North Baptist Society, in Dorchester, which was effected on the twenty-first day of September, in the year eighteen hundred and forty-six, and all the subsequent proceedings of said society, under and by virtue of such organization, as the same are now entered as the records of the said society, in the possession of J. J. Howe, the clerk thereof, are hereby ratified, fully established and confirmed, as the acts, doings and records of a duly and legally organized corporation ; and the persons now acting as officers of said corporation, according to said records, are hereby confirmed, as the lawfully constituted officers thereof, and authorized to perform all their respective official duties, until their successors be chosen and qualified ; any defects or informalities heretofore in said organization and proceedings, to the contrary, notwithstanding. Organization confirmed.

SECTION 2. This act shall take effect from and after its passage.

Approved March 5, 1859.

AN ACT TO CHANGE THE NAME OF THE HOWARD BANKING COMPANY.

Chap. 84.

Be it enacted, &c., as follows :

SECTION 1. The Howard Banking Company shall hereafter be called and known by the name of the Howard Bank. Name changed.

SECTION 2. This act shall take effect from and after its passage.

Approved March 7, 1859.

Chap. 85. AN ACT TO INCORPORATE THE PROPRIETORS OF THE CHURCH OF THE PATERNITY, IN BOSTON.

Be it enacted, &c., as follows :

Corporators. SECTION 1. John A. Baxter, John D. W. Joy, Albert Metcalf, their associates and successors, are hereby incorporated as a Universalist Society, in Boston, by the name of the Proprietors of the Church of the Paternity ; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the twentieth and forty-fourth chapters of the Revised Statutes ; with power to tax pews according to the provisions of " An Act relating to Religious Societies," passed March twenty-fifth, in the year one thousand eight hundred and forty-five.

Annual meeting. SECTION 2. The annual meeting of said religious society shall be holden on any day in December, Sunday excepted ; and at said meeting there shall be chosen, by ballot, a moderator, clerk, treasurer, collector, and a standing committee consisting of seven persons ; all of whom shall continue in office one year, and until others are chosen and qualified in their stead.

Officers, how chosen. SECTION 3. This act shall take effect from and after its passage.

Approved March 7, 1859.

Chap. 86. AN ACT AUTHORIZING SAMUEL DYER AND OTHERS TO BUILD A DIKE ACROSS LITTLE HARBOR MEADOW, IN TRURO.

Be it enacted, &c., as follows :

May construct dike, &c. Samuel Dyer, Hugh Hopkins, Joseph Harding, their associates and successors, proprietors of Little Harbor Meadow, in Truro, are hereby authorized to construct and maintain a dike over said meadow at a point of beach opposite the dwelling-houses of Richard Atwood and Joseph Hatch, in said town : *provided, however,* that this act shall in no wise impair the legal rights of any person.

Proviso.

Approved March 7, 1859.

Chap. 87. AN ACT TO INCORPORATE THE PROPRIETORS OF SAINT ANDREW'S CHURCH, IN CHELSEA.

Be it enacted, &c., as follows :

Corporators. SECTION 1. Stephen D. Massey, Edwin C. Barnes, Charles A. Davis, and their associates and successors, are hereby made a corporation by the name of St. Andrew's Church, in Chelsea ; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes, and so much of

Name.

Privileges, restrictions, &c.

the twentieth chapter of said statutes as relates to the same.

SECTION 2. Said corporation shall hold all the funds of said St. Andrew's Church, including their buildings and land under and appurtenant to the same, and such other real and personal estate as may accrue to or for the benefit of said church, by gift, grant or otherwise, and apply the same in the way and manner which may be provided by the donor or donors, and for no other purpose whatever: *provided, however*, that the whole amount of the aforesaid funds, together with such real and personal estate as may be added thereto, shall not exceed thirty thousand dollars.

Real and personal estate, &c.

How applied.

Proviso.

SECTION 3. Said corporation shall have the power to make and establish such by-laws as they may judge necessary, and to fill all vacancies that may occur in their body by death, resignation or otherwise.

Power.

SECTION 4. This act shall take effect from and after its passage.

Approved March 7, 1859.

AN ACT TO CHANGE THE NAME OF THE "OLD SOUTH CHURCH, IN BOSTON." *Chap. 88.*

Be it enacted, &c., as follows :

SECTION 1. The religious society, known by the corporate name of the "Old South Church, in Boston," is hereby authorized to take the name of the "Old South Society, in Boston," any thing in the act to which this is an amendment, to the contrary notwithstanding; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, contained in their act of incorporation, granted March twenty-sixth, one thousand eight hundred and forty-five.

Name changed.

Privileges, restrictions, &c.

SECTION 2. This act shall take effect from and after the date of its acceptance by the said society, at their next annual meeting, or at any special meeting legally convened for that purpose.

Approved March 7, 1859.

AN ACT CONCERNING THE ATTENDANCE OF CHILDREN AT SCHOOL, IN ADJOINING TOWNS. *Chap. 89.*

Be it enacted, &c., as follows :

SECTION 1. Children living remote from any public school in the town in which they reside, may be allowed to attend the public schools in an adjoining town, under such regulations, and on such terms, as the school committees of the said towns may agree upon and prescribe; and the school committee of the town in which such children reside, is

Children living remote from schools in one town may attend in adjoining town

authorized and required to pay out of the appropriations of money raised in said town for the support of schools, such sum as may have been agreed upon, as aforesaid.

Repeal.

SECTION 2. Chapter seventy-eight, of the acts of the year one thousand eight hundred and fifty-five, is hereby repealed.

SECTION 3. This act shall take effect from and after its passage.

Approved March 7, 1859.

Chap. 90.

AN ACT RELATING TO THE HERRING FISHERY IN INDIAN HEAD RIVER.

Be it enacted, &c., as follows :

Rights, duties, &c., prescribed by Act of 1792 conferred and imposed upon towns of Hanson and Hanover.

All the rights, duties, benefits and privileges, conferred or imposed upon the towns of Pembroke and Hanover, or either of them, by the act entitled "An Act for regulating the taking the fish called alewives, in their passage up Indian Head River, so called, between the towns of Pembroke and Hanover, in the county of Plymouth, into a pond in said town of Pembroke, known by the name of Indian Head Pond," passed February twenty-second, in the year one thousand seven hundred and ninety-two, are hereby conferred and imposed upon the towns of Hanson and Hanover, in said county of Plymouth.

Approved March 7, 1859.

Chap. 91.

AN ACT TO REVIVE THE LAND OFFICE.

Be it enacted, &c., as follows :

Act of 1858 repealed.

SECTION 1. The eighty-fifth chapter of the acts of the year eighteen hundred and fifty-eight, entitled "An Act to abolish the Land Office," is hereby repealed, and the acts and parts of acts therein repealed are hereby revived: *provided, however*, that the land agent shall not be furnished with a clerk, shall hold office for the term of one year only, and shall give bond in such sum only, as the governor and council shall determine.

Proviso.

Salary continued

SECTION 2. The salary of the late land agent is hereby continued from and after January first, eighteen hundred and fifty-nine, until an appointment be made under the provisions of this act, and the acts hereby revived.

SECTION 3. This act shall take effect from and after its passage.

Approved March 10, 1859.

Chap. 92.

AN ACT TO INCREASE THE CAPITAL STOCK OF THE WASHINGTON INSURANCE COMPANY.

Be it enacted, &c., as follows :

Additional capital \$100,000.

The Washington Insurance Company, in the city of Boston, is hereby authorized to increase its capital stock, by an addition thereto of a sum not exceeding one hundred thousand dollars, to be collected and paid in such instal-

ments, and under such provisions and penalties, as the president and directors of said company may appoint.

Approved March 10, 1859.

AN ACT RELATING TO SCHOOL BOOKS AND CHANGES IN THE SAME.

Be it enacted, &c., as follows:

Chap. 93.

SECTION 1. The school committee of each city and town shall procure, at the expense of said city or town, or otherwise, a sufficient supply of school books for the public schools therein, and shall give notice of the place where such books may be obtained; and the books shall be supplied to the scholars at such prices as merely to reimburse the city or town the expense of the same.

Scholars to be furnished with school books at cost.

SECTION 2. No change in the school books used in the public schools shall be hereafter made, except by the unanimous consent of the school committee of the city or town in which such change is proposed: *provided, however*, that whenever the school committee shall consist of a greater number than nine, and questions relating to school books shall be intrusted to a sub-committee of the same, the consent of two-thirds of said sub-committee, with the concurrent vote of at least three-fourths of the members present, at any meeting of the board called for the purpose, shall be requisite for such change.

Changes forbidden except, &c.

Proviso.

SECTION 3. Whenever a change is made, as provided by the second section of this act, each pupil then belonging to the public schools, and requiring the substituted book, shall be furnished with the same, by the school committee thereof, at the expense of said city or town.

Pupils to be furnished at expense of town, when change is made.

SECTION 4. This act shall take effect from and after its passage.

Approved March 10, 1859.

AN ACT ADDITIONAL TO AN ACT INCORPORATING THE BOWDOIN MUTUAL FIRE INSURANCE COMPANY.

Be it enacted, &c., as follows:

Chap. 94.

The Bowdoin Mutual Fire Insurance Company, of Boston, are hereby authorized to issue policies of insurance according to the provisions of chapter one hundred and fifty, of the statutes of eighteen hundred fifty eight.

Policies, how to be issued, &c.

[Approved March 10, 1859.]

AN ACT TO INCORPORATE THE HOME MUTUAL FIRE INSURANCE COMPANY.

Be it enacted, &c., as follows:

Chap. 95.

Samuel H. Loring, Chauncey Chase, Hiram Curtis, their associates and successors, are hereby made a corporation by the name of the Home Mutual Fire Insurance Company, to be

Corporators.

Name.

Purpose.

Privileges, re-
strictions, &c.

established in the city of Boston, for the purpose of insuring dwelling-houses and other buildings, and personal property, against loss or damage by fire ; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the two hundred and fifty-second chapter of the laws of the Commonwealth of Massachusetts, passed June third, eighteen hundred and fifty-six, and all other laws of this Commonwealth applicable to mutual fire insurance companies.

Approved March 14, 1859.

Chap. 96.

AN ACT TO PREVENT CRUELTY TO ANIMALS.

Be it enacted &c., as follows :

Penalty for tor-
turing animal.

SECTION 1. Every person who shall cruelly beat, maim or torture any animal, shall be punished by imprisonment in the county jail, or house of correction, not more than one year, or by a fine, not exceeding one hundred dollars.

Repeal.

SECTION 2. The twenty-second section of the one hundred and thirtieth chapter of the Revised Statutes, is hereby repealed.

Approved March 14, 1859.

Chap. 97.

AN ACT CONCERNING THE BOSTON, BARRE AND GARDNER RAILROAD CORPORATION.

Be it enacted, &c., as follows :

Time for con-
struction extend-
ed.

SECTION 1. The time allowed to the Boston, Barre and Gardner Railroad Corporation for constructing their railroad, is hereby extended to the first day of July, one thousand eight hundred and sixty-three.

Time of applica-
tion to county
commissioners to
estimate dama-
ges extended.

SECTION 2. The time within which applications may be made to the county commissioners to estimate damages for land or property taken by said railroad corporation, as provided in the Revised Statutes, is hereby extended four years, from and after the passage of this act, notwithstanding said corporation may have heretofore filed the location of their railroad.

Approved March 14, 1859.

Chap. 98.

AN ACT CONCERNING THE CHAUNCY FIRE AND MARINE INSURANCE COMPANY.

Be it enacted, &c., as follows :

Acts legalized.

SECTION 1. All acts which shall have been done by the Chauncy Fire and Marine Insurance Company in or under the name of the Quincy Fire and Marine Insurance Company, prior to the time when this act takes effect, shall have the same operation and force in law, in all respects whatever, as if the same had been done in and under the name of the Chauncy Fire and Marine Insurance Company.

SECTION 2. The name and style of the Chauncy Fire and Marine Insurance Company, shall henceforth be the Prescott Fire and Marine Insurance Company. Change of name.

SECTION 3. This act shall take effect in ten days after its passage.

Approved March 14, 1859.

AN ACT RELATING TO MALDEN BRIDGE.

Chap. 99.

Be it enacted, &c., as follows:

SECTION 1. Malden Bridge, over Mystic River, in the city of Charlestown, is hereby laid out as a public highway; and the collection of tolls thereon shall cease on the first day of April next.

Malden Bridge
made free.

SECTION 2. The said bridge shall be kept in repair, and the draw thereof opened for the passage of vessels at all proper times, at the expense of the city of Charlestown, and the towns of Malden, Melrose, South Reading, Reading, North Reading and Stoneham, and the Malden and Melrose Railroad Company, in such proportion as the mayor of said city, and the chairman of the selectmen of the respective towns, and the president of said company, for the time being, after hearing all parties interested, upon due notice given for that purpose, shall determine: *provided*, that in no year shall a sum larger than one hundred dollars be assessed upon the city of Charlestown, or the town of Melrose; nor a sum larger than seventy-five dollars upon the towns of Stoneham or South Reading; nor a sum larger than fifty dollars upon the town of Reading; nor a sum larger than twenty-five dollars upon the town of North Reading. And the residue of such expense shall assessed upon the town of Malden and the Malden and Melrose Railroad Company, in such proportion as said mayor and chairmen of selectmen, and president of said company shall, by a majority vote, determine.

Expense of re-
pairs and opening
draw; in what
manner, and by
what towns, &c.,
to be borne.

Proportion of as-
sessments.

SECTION 3. The mayor of Charlestown shall annually, in the month of April, appoint a time and place for a meeting of said mayor, chairmen of selectmen, and president, at which meeting they shall estimate the probable expense of the repairs and maintenance of said bridge for the next ensuing year, and determine the proportions thereof to be paid by the said city, towns and company, respectively, and to whom to be paid and by whom to be disbursed, and shall, before the first day of May of each year, notify said city, towns and company of the amount assessed upon each.

Mayor of Charles-
town to appoint
meeting to deter-
mine proportion
of assessments.

SECTION 4. The towns and city so assessed shall raise the amount so assessed in the same manner as money is now by law raised for the repairs of streets and highways in the said

Amounts assess-
ed on towns, how
to be raised.

towns and city; and the officers of the same shall have the same power and authority as in the assessment and collection of taxes for the repairs of streets and highways.

Orders passed to be final upon parties interested.

SECTION 5. All orders passed by said mayor, chairmen of selectmen and president, after a hearing as aforesaid, shall be final upon the parties interested, and shall be enforced in the same manner as orders by county commissioners are now by law enforced.

Superintendence of bridge.

SECTION 6. The mayor and aldermen of the city of Charlestown shall take the care and superintendence of said bridge, and shall employ all services necessary in the care thereof.

Right of Commonwealth not surrendered. May resume, control, &c.

SECTION 7. Nothing in this act contained shall be construed as a surrender, on the part of the Commonwealth, of the right now held in said bridge and the franchise thereof, by the Commonwealth; and the Commonwealth may, at the will of the legislature, resume the control of said bridge, and collect tolls thereon, in the same manner and to the same amounts as if this act had not been passed.

Office abolished.

SECTION 8. The office of commissioners on said bridge is hereby abolished; and all laws inconsistent herewith repealed.

When to take effect.

SECTION 9. This act shall take effect on the first day of April next.

Approved March 14, 1859.

Chap. 100

AN ACT TO AMEND AN ACT TO INCORPORATE THE BANK OF MUTUAL REDEMPTION.

Be it enacted, &c., as follows:

Stock owned by any bank may be held to secure indebtedness.

SECTION 1. Chapter four hundred and fifty, of the acts of the year eighteen hundred and fifty-five, entitled "An Act to incorporate the Bank of Mutual Redemption," is hereby so amended, that the stock held in said bank by either of the banks of New England, shall be held to be pledged to said bank, to secure any indebtedness of the stockholder bank to said Bank of Mutual Redemption, including the bills of the bank so indebted.

May sell stock of debtor bank, &c.

SECTION 2. It shall be lawful for said Bank of Mutual Redemption, to sell at public auction any stock so held for such indebtedness, to any bank authorized by law to hold the same, after sixty days' notice to the debtor stockholding bank, and neglect of said debtor bank to discharge its indebtedness.

SECTION 3. This act shall take effect from and after its passage.

Approved March 15, 1859.

AN ACT IN RELATION TO THE DIET, CLOTHING AND BEDDING OF CONVICTS IN THE STATE PRISON.

Chap. 101

Be it enacted, &c., as follows :

SECTION 1. Sections forty-four, forty-five and forty-seven, of chapter one hundred and forty-four of the Revised Statutes, are hereby repealed; and in place of the rules and regulations therein prescribed, the warden and inspectors of the state prison may, with the consent of the governor and council, make such regulations in regard to the rations, clothing and bedding of the convicts, as the health, well-being and circumstances of each convict may require: *provided*, that the aggregate expense of the prison be not thereby increased, and that the diet, rations, clothing, beds and bedding, be of good quality, and in sufficient quantity, for the sustenance and comfort of said convicts; and *provided, further*, that no intoxicating liquors shall be furnished for said convicts.

Warden and inspectors, with consent of executive, to make regulations.

Proviso.

SECTION 2. This act shall take effect from and after its passage.

Approved March 17, 1859.

AN ACT RETATING TO A RETURN OF PICKLED AND SMOKED FISH.

Chap. 102

Be it enacted, &c., as follows :

SECTION 1. The inspector-general of fish shall, in the month of January, annually, make a return into the office of the secretary of the Commonwealth, of all the fish inspected by him and his deputies during the year preceding the first day of said January, designating the quantities, kinds and qualities of pickled and smoked fish respectively, and distinguishing the quantities, kinds and qualities of pickled fish of a first inspection, from those re-inspected.

Inspector-general to make return, &c.

SECTION 2. The secretary of the Commonwealth shall, as soon as may be, after he has received the annual return of the inspector-general of fish, cause the same to be published in any newspaper in the city of Boston, authorized to publish the laws of the Commonwealth.

Secretary to publish.

SECTION 3. The seventy-second section of the twenty-eighth chapter of the Revised Statutes is hereby repealed.

Repeal.

Approved March 17, 1859.

AN ACT ESTABLISHING THE PAY OF MEMBERS OF SCHOOL COMMITTEES.

Chap. 103

Be it enacted, &c., as follows :

SECTION 1. The fourth section of the one hundred and fifth chapter of the acts of the year eighteen hundred and thirty-eight, is hereby so far amended as to make the sum to be paid to members of school committees, one dollar and one-half per day, for the time they shall be actually employed

One dollar and fifty cents per day for actual service.

in discharging the duties of their office, together with such additional compensation as their respective towns may allow.

SECTION 2. This act shall not apply to cities.

Approved March 17, 1859.

Chap. 104

AN ACT CONCERNING ISSUES OF STOCK BY CORPORATIONS.

Be it enacted, &c., as follows:

No shares to be created of less par value than those first issued.

SECTION 1. No corporation created by the authority of this Commonwealth, having a capital stock divided into shares, shall issue any shares in said capital stock, or in any increase thereof, for a less sum or amount, to be actually paid in on each share, than the par value of the shares which shall be first issued; unless the same shall be authorized by special provision of the act of incorporation, or by act of the legislature, subsequently obtained.

Proviso.

Repeal.

SECTION 2. Chapter one hundred and sixty-seven of the acts of the year eighteen hundred and fifty-eight, is hereby repealed.

Approved March 17, 1859.

Chap. 105

AN ACT RELATING TO THE TROUT FISHERY IN MARSHPEE RIVER.

Be it enacted, &c., as follows:

When trout shall not be taken.

SECTION 1. The first section of the thirty-sixth chapter of the acts of the year one thousand eight hundred and forty-nine, is hereby so amended, that no person shall take any trout in Marshpee River, from the fifteenth day of September in each year, to the twentieth day of March, in the year next ensuing.

Selectmen may dispose of fishery, &c.

SECTION 2. The fifth section of chapter one hundred and eighty-six, of the acts of the year one thousand eight hundred and fifty-three, is hereby so amended, that the selectmen of the district of Marshpee may lease or dispose of the trout or herring fishery in said district, according to the provisions of said section, for terms of time not exceeding twenty years in any one lease.

Approved March 17, 1859.

Chap. 106

AN ACT TO AMEND AN ACT RELATING TO THE FISHERIES.

Be it enacted, &c., as follows:

Act of 1857 amended.

The first section of the thirtieth chapter of the acts of the year eighteen hundred and fifty-seven, is hereby amended, by striking out all after the word "provided," in said section, and inserting the following:—That the provisions of this act shall not extend to any town, unless such town, at a legal meeting, shall adopt the same.

Approved March 17, 1859.

AN ACT CONCERNING THE STATE LUNATIC HOSPITALS.

Chap. 107

Be it enacted, &c., as follows :

SECTION 1. The salaries of the superintendents, assistant-physicians, stewards and matrons of the state lunatic hospitals, at Worcester, Taunton and Northampton, shall be paid from the current receipts of the several hospitals.

Salaries, how paid.

SECTION 2. The amount paid by the Commonwealth for the support, at the state lunatic hospitals, of lunatics not having any known settlement within this state, shall not exceed two dollars and fifty cents per week, for each of such lunatics.

Support of lunatics having no settlement.

SECTION 3. This act shall take effect from and after the thirtieth day of September, in the year eighteen hundred and fifty-nine.

Act, when to take effect.

Approved March 17, 1859.

AN ACT TO AMEND AN ACT CONCERNING THE DISCIPLINE OF JAILS AND HOUSES OF CORRECTION.

Chap. 108

Be it enacted, &c., as follows :

SECTION 1. Chapter seventy-seven of the acts of the year eighteen hundred and fifty-eight, is hereby so amended, that the record of the conduct of prisoners confined in the jails and houses of correction, shall be submitted to the sheriff and overseers of the houses of correction, or where there are no overseers, to the sheriff and county commissioners, to be considered by them in recommending prisoners for the exercise of executive clemency.

Act of 1858, amended.

SECTION 2. Two or more sentences imposed on one prisoner shall, for the purposes of this act, be considered one sentence.

Recommendation for pardon.

Approved March 17, 1859.

AN ACT TO INCORPORATE THE TOWN OF BELMONT.

Chap. 109

Be it enacted, &c., as follows :

SECTION 1. That portion of the towns of West Cambridge, Watertown and Waltham, included within the following boundaries, namely—commencing at a stone post at the north-western corner, said post being on the line between Lexington and West Cambridge (run as the magnetic needle now points) south, about sixty-seven degrees east, five hundred and thirty-seven rods and two links, more or less, to a point in the centre of Spring Place, near the house of Edward Fillebrown; thence following said Spring Place in a southeasterly direction, one hundred forty-seven rods and eighteen links, more or less, to the centre of Pleasant Street; thence following Pleasant Street north six rods and fifteen links to a point in said street opposite the centre of the westerly end of Pond Street; thence following said Pond Street in a

Boundaries.

south-easterly direction one hundred fifty-eight rods and eight links, more or less, to a spike in the centre of said Pond Street, which said spike is opposite a stone post; thence south, about fifty degrees east, two hundred thirty-two rods, more or less, in a direct line to the junction of Little River with the brook that forms the outlet of Fresh Pond; thence following said brook to the point where it takes its source from said pond, said brook being the boundary line between Old Cambridge and West Cambridge; thence south, sixty-five degrees west, one hundred and thirty-seven rods nine links, to a point near the centre of said pond; thence south, five degrees and sixteen minutes east, two hundred fourteen and one-fourth rods, to a stone post near the entrance of Mount Auburn; thence in a north-westerly direction, following the south side of Belmont Street, seven hundred thirteen rods four links, to a point known as the Four Corners; thence north, twenty-four and three-quarters degrees west, one hundred eighty-six rods, to a point on Beaver Brook; thence following said brook in a north-easterly by north-westerly direction, to a point where said brook crosses the line between West Cambridge and Waltham; thence north, fifty-three degrees west, one hundred and forty-one rods twenty-three links, to a stone post, said post being at the extreme south-east corner of Lexington; thence north, forty-five and one-half degrees east, on the line of Lexington, two hundred rods, to a stone post; thence north, forty-four and one-half degrees east, on the line of Lexington, forty rods sixteen links, to the point of starting,—is hereby incorporated into a town by the name of Belmont; and the inhabitants of said town of Belmont are hereby invested with all the powers and privileges, and shall be subject to all the duties and requisitions of other incorporated towns according to the constitution and laws of the Commonwealth.

Powers, privileges, &c.

Inhabitants to pay all taxes assessed, &c.

SECTION 2. The inhabitants of said town of Belmont shall be holden to pay all arrears of taxes which have been assessed upon them by the towns of West Cambridge, Watertown and Waltham respectively, before the first day of May, in the year of our Lord one thousand eight hundred and fifty-nine, and also their proportion of all county and state taxes that may be assessed upon said towns, respectively, previous to the taking of the next state valuation, said proportion to be ascertained and determined by the last valuation of said towns respectively; and said town of Belmont shall be holden to pay their proportion of the debts due and owing, at the time of the passage of this act, from the towns

of West Cambridge, Watertown and Waltham respectively, and be entitled to receive of the said towns, respectively, their proportion of all the corporate property now owned by said towns of West Cambridge, Watertown and Waltham respectively; such proportion to be ascertained and determined by the last valuation of said towns respectively.

SECTION 3. The town of Belmont shall support their proportion of all paupers now supported by either of the said towns of West Cambridge, Watertown and Waltham, and the said towns of Belmont, West Cambridge, Watertown and Waltham shall be respectively liable for the support of all paupers who shall hereafter stand in need of relief as paupers, whose settlement was gained or derived within their respective limits. Support of paupers.

SECTION 4. In case the said towns of West Cambridge and Belmont, or said towns of Watertown and Belmont, or said towns of Waltham and Belmont shall disagree in respect to a division of paupers, town property, town debts, or state and county taxes, the court of common pleas for the county of Middlesex are hereby authorized to, and shall, on application of either of said towns, appoint three disinterested persons to hear the parties and award thereon, which award, when accepted by the court, shall be final. Disagreement as to division of paupers, town property, debts, &c.

SECTION 5. The town of Belmont, for the purpose of electing representatives and senators to the general court, and councillors, and representatives to congress, until the next decennial census, or until another apportionment be made, shall remain a part of said towns of West Cambridge, Watertown and Waltham respectively, and vote therefor at such places, respectively, as the said towns of West Cambridge, Watertown and Waltham shall vote for the said officers; and the selectmen of Belmont shall make a true list of all persons within their town qualified to vote at any such election, and shall post up the same in said town of Belmont, and shall correct the same, as required by law, and shall deliver a true list of all such voters as are entitled to vote in said towns of West Cambridge, Watertown and Waltham respectively, to the selectmen thereof, seven days at least before such election, to be used thereat. Election of representatives, senators, councillors and representatives to congress.

SECTION 6. Any justice of the peace in the county of Middlesex is hereby authorized to issue his warrant to any principal inhabitant of the town of Belmont, requiring him to warn the inhabitants of said town to meet at the time and place therein appointed, for the purpose of choosing all such town officers as towns are by law authorized and required to choose at their annual meetings. Choice of town officers.

SECTION 7. This act shall take effect from and after its passage.

Approved March 18, 1859.

Chap. 110 AN ACT IN RELATION TO JUDGES OF PROBATE AND INSOLVENCY.

Be it enacted, &c., as follows:

Judges may interchange service.

SECTION 1. Judges of probate and insolvency in the several counties may interchange service and perform each other's duties, when they may find it necessary or convenient.

Register to certify in such case.

SECTION 2. When such interchange shall take place, the register of probate and insolvency for the county in which the judge of any other county acts, shall certify on the records of his courts, the time during which or the cases in which such judge so acts.

All bonds to be given to resident judge, &c.

SECTION 3. Bonds, required to be given to the judge of probate and insolvency, shall be given to the judge appointed for the county and his successors in office, and all business shall be done in his name, or the name of the probate court or the court of insolvency for the same county, as the case may be; but all bonds may be approved, and all other acts, required to be done or certified by the judge, may be approved, done or certified by the acting judge.

SECTION 4. This act shall take effect from and after its passage.

Approved March 19, 1859.

Chap. 111 AN ACT TO EXTEND THE MARINE RAILWAYS OF D. O. PARKHURST AND JOHN H. GALE, OF GLOUCESTER.

Be it enacted, &c., as follows:

May extend railways.

SECTION 1. D. O. Parkhurst and John H. Gale, of Gloucester, in the county of Essex, are hereby authorized to build, maintain and extend the two marine railways, now owned by them, to a distance of thirty-feet, into Gloucester harbor, in a south-easterly direction, and on a line with that part of the aforesaid railways already constructed: *provided, however,* that this act shall in no wise impair the legal rights of any other person whatever.

Proviso.

SECTION 2. This act shall take effect from and after its passage.

Approved March 19, 1859.

Chap. 112 AN ACT TO CONFIRM CERTAIN ACTS DONE BY JOHN J. RUSSELL, AS JUSTICE OF THE PEACE.

Be it enacted, &c., as follows:

Acts made valid.

All acts done by John J. Russell, of Plymouth, in the county of Plymouth, as a justice of the peace within and for said county of Plymouth, between the first day of December, in the year one thousand eight hundred and fifty-seven, and the twentieth day of March, in the year eighteen hundred and fifty-nine, are hereby made valid and confirmed, to

the same extent as they would have been valid, had he been, during that interval, duly qualified to discharge the duties of the said office.

Approved March 22, 1859.

AN ACT CONCERNING THE MIDDLESEX COMPANY.

Chap. 113

Be it enacted, &c., as follows :

SECTION 1. The Middlesex Company is hereby authorized to change the par value of its shares to such amount, not less than one hundred dollars each, by increasing the number of shares of its capital stock to such number, not less than two thousand, as shall be established and voted by the stockholders thereof, at a meeting to be specially called for that purpose, within one year from the passage of this act.

May change par value and increase number of shares.

SECTION 2. Said corporation is also authorized further to issue new shares, of the par value so established, to an amount not exceeding three hundred thousand dollars, in addition to the capital stock as it shall be established under the authority of section first of this act; such new shares to be offered to the present stockholders in said corporation, in proportion to the amount of old stock held by them at the time of the issue of such new shares; and if not accepted by them within sixty days after such offer, to be disposed of in such manner as shall be prescribed by vote of the company.

\$300,000 additional capital.

New shares how disposed of, &c.

SECTION 3. This act shall take effect whenever the same shall be accepted by the stockholders in said corporation, at a legal meeting thereof, called and held for the purpose, within one year from the passage of this act.

Act not to take effect until accepted.

Approved March 24, 1859.

AN ACT RELATING TO THE TAXATION OF SHIPS.

Chap. 114

Be it enacted, &c., as follows :

Taxes on ships or vessels owned by a copartnership, shall be assessed to each copartner, to the extent of his interest therein, in the town or city wherein he resides.

Taxes to be assessed to each copartner.

Approved March 24, 1859.

AN ACT IN RELATION TO THE BOSTON AND MAINE RAILROAD.

Chap. 115

Be it enacted, &c., as follows :

SECTION 1. The Boston and Maine Railroad is hereby authorized to render that portion of its pile structure over Miller's River, between what is called the "Island," north of Prison Point, and the main land in Somerville, more safe and convenient, by filling up and making solid the same, leaving however a passage way in the channel of Miller's River, where it passes under said structure, at least thirty feet wide, for the convenient passage of water. Said company is also hereby authorized to re-locate its road and widen

May fill up pile structure, &c.

May re-locate and widen road, &c.

the same from said island to said Somerville shore, so that the easterly line thereof shall be twenty-six and a half feet from the centre of its present road, and may locate and construct the new part of said structure upon and over the same, which it may take and hold for the above purpose.

Privileges, re-
strictions, &c.

SECTION 2. Said company shall, with respect to the land hereby authorized to be taken and filled up, enjoy all the rights and privileges, and be subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes, and in that part of the thirty-ninth chapter of the Revised Statutes relating to railroad corporations, and in all general statutes that have been or shall be passed relating to railroad corporations.

Approved March 25, 1859.

Chap. 116 AN ACT TO PUNISH AND REMEDY THE WRONGFUL DETENTION OF
BANK BILLS.

Be it enacted, &c., as follows:

Bank having
made legal ten-
der or payment
for redemption
of its bills may
sue out writ of
replevin to re-
cover.

SECTION 1. Any bank or banking company issuing bills or notes as currency, having made a legal tender to, or having paid to the holder of any of its bills or notes, the amount due thereon with interest and costs, if any have accrued, if such notes or bills shall be detained after such payment or tender, and a demand therefor, may sue out a writ of replevin to recover the same bills or notes, in like manner and to the like effect as in case of other personal chattels wrongfully detained; and if such bills or notes are secreted or withheld, so that they cannot be replevied, remedy may be had in equity, as in case of such chattels so withheld or secreted.

Remedy in equi-
ty, if concealed.

If withheld be-
cause of amount
due thereby.

SECTION 2. If it shall appear upon trial or hearing of the cause, that such bills or notes were withheld because of any penalty, forfeiture, interest or sum due thereby, or arising thereon, to the defendant, beyond the amount so paid or tendered, the defendant shall have judgment for such sum due at that time, with interest and costs of suit; otherwise, if he shall not have received the sum tendered, he shall have judgment only for that amount; and the plaintiff shall recover the amount of his damages for the detention of such bills or notes, with costs of suit: *provided*, the amount of such sum due the defendant and the amount of the damages of the plaintiff shall be assessed by the jury who try the cause, or by the court, upon non-suit or default, or hearing in equity.

Penalty for col-
lecting and re-
taining bank bills
for purpose of
injuring bank.

SECTION 3. Whoever maliciously gathers up, or retains, or maliciously aids in gathering up, or retaining, any bills or notes of any bank, or banking company, current by law,

or usage in this state, for the purpose of injuring or impeding the circulation or business of such bank, or banking company, or of compelling it to do any act out of the usual course of its business, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the jail not more than two years.

SECTION 4. In the prosecution of any offence mentioned in the preceding section, it shall not be necessary to set out and describe each bill which is the subject of such offence, but it shall be deemed sufficient to aver and prove any amount of bills of any bank which have been so gathered up, or retained.

Necessary only to prove amount retained.

SECTION 5. This act shall not affect any suits now pending.

Approved March 26, 1859.

AN ACT IN ADDITION TO AN ACT AUTHORIZING A LOAN OF THE STATE CREDIT, TO ENABLE THE TROY AND GREENFIELD RAILROAD COMPANY TO CONSTRUCT THE HOOSAC TUNNEL.

Chap. 117

Be it enacted, &c., as follows:

SECTION 1. The terms of the act authorizing a loan of the state credit to enable the Troy and Greenfield Railroad Company to construct the Hoosac Tunnel, are hereby modified as follows, viz.:

Modification of terms of loan.

Whenever it shall be made to appear to the satisfaction of the governor and council, that the Troy and Greenfield Railroad Company shall have actually obtained unconditional subscriptions to their corporate stock in the sum of six hundred thousand dollars, and twenty per cent. on each and every share of said six hundred thousand dollars shall have been actually paid in, and shall have completed seven miles of their road, in one or two sections, and one thousand lineal feet of their said tunnel under the Hoosac Mountain, in one or more sections, of size sufficient for one or more railroad tracks, a portion of said scrip, to the amount of one hundred thousand dollars, shall be delivered to the treasurer of said company; and whenever said company shall have excavated, in addition to the amount of tunnel above provided for, one thousand lineal feet, in one or more sections, of heading or gallery of fourteen feet width at the bottom, and six feet in height in the middle, and of suitable proportion and form, or (if excavated by machinery) circular, and with a diameter of not less than eight feet, another portion of said scrip, amounting to fifty thousand dollars, shall be delivered to the treasurer of said company; and when said company shall have excavated two thousand feet of their said tunnel, of the size above specified, another portion of said scrip,

amounting to thirty thousand dollars, shall be delivered as aforesaid ; and whenever said company in addition to said two thousand feet, shall have excavated one thousand lineal feet of heading, in one or more sections, and of the size above specified, and shall have graded three miles of road, commencing on the bank of Green River, at the present location of the crossing of said stream, or north thereof, and extending towards Shelburne Falls, on the same side of Green River and Deerfield River as the present location, said three miles being all situated within four miles of the point of commencement, another portion of said scrip, amounting to eighty thousand dollars, shall be delivered as aforesaid ; and whenever in addition to the grading of said three miles as above, said company shall have excavated three thousand lineal feet of tunnel as above specified, another portion of said scrip, to the amount of twenty thousand dollars, shall be delivered as aforesaid ; and whenever said company, in addition to the three thousand feet above specified, shall have excavated, in one or more sections, one thousand lineal feet of heading, as above specified, and shall have graded six miles of road in location and otherwise as aforesaid, said six miles of road being all situate within seven miles of the point of commencement at Green River, another portion of said scrip, amounting to eighty thousand dollars, shall be delivered as aforesaid ; and when said company, in addition to the grading of six miles of road above specified, shall have excavated four thousand feet of tunnel as above, another portion of said scrip, amounting to twenty thousand dollars, shall be delivered as aforesaid ; and whenever said company, in addition to the above, shall have excavated, in one or more sections, one thousand lineal feet of heading as aforesaid, and shall have graded nine miles of road, in location and otherwise as aforesaid, between Greenfield and Shelburne Falls, another portion of said scrip, to the amount of eighty thousand dollars, shall be delivered as aforesaid ; and whenever said company, in addition to the above nine miles of graded road, shall have excavated five thousand feet of tunnel as aforesaid, another portion of said scrip, amounting to twenty thousand dollars, shall be delivered as aforesaid ; and whenever said company shall have excavated, in one or more sections, one thousand lineal feet of heading as aforesaid, in addition to the five thousand feet of tunnel above specified, and shall have graded the road between Greenfield and Shelburne Falls, crossing the Green River upon the present location, or at a point north thereof, another portion of said scrip, amounting to eighty thousand

dollars, shall be delivered as aforesaid; and whenever said company, in addition to the grading of the road between Greenfield and Shelburne Falls as aforesaid, shall have excavated six thousand feet of tunnel as aforesaid, another portion of said scrip, amounting to twenty thousand dollars, shall be delivered as aforesaid; and whenever in addition to the grading and tunnel above specified, the said company shall have excavated as aforesaid, one thousand lineal feet of heading, another portion of said scrip, to the amount of thirty thousand dollars, shall be delivered as aforesaid; and whenever in addition to the grading above specified, the said company shall have excavated seven thousand feet of tunnel as aforesaid, another portion of said scrip, to the amount of twenty thousand dollars, shall be delivered as aforesaid; and for each additional thousand feet of heading that shall be excavated of dimensions as aforesaid, another portion of said scrip, amounting to thirty thousand dollars, shall be delivered as aforesaid; and for each additional one thousand feet of tunnel that shall be excavated of dimensions as aforesaid, another portion of said scrip, amounting to twenty thousand dollars, shall be delivered as aforesaid; and whenever said company shall have completed the graduation and superstructure of the road between Greenfield and Shelburne Falls, on the route herein before specified, and shall have put the same in running order, another portion of said scrip, to the amount of forty thousand dollars, shall be delivered as aforesaid; and whenever said company, in addition to the road between Greenfield and Shelburne Falls above specified, shall have completed the graduation and superstructure of two continuous miles of road, commencing at the western termination of the above road, another portion of said scrip, amounting to eighty thousand dollars, shall be delivered as aforesaid; and for the graduation and superstructure of each additional mile of road, graded and laid continuously through either of the towns of Buckland, Charlemont, Rowe or Florida, another portion of said scrip, amounting to twenty thousand dollars, shall be delivered as aforesaid: *provided*, that when the rails shall have been laid and the road put in running order, between Greenfield and the east end of the Hoosac Tunnel, excepting that portion of the road which is to be made from the material to be furnished by the tunnel itself, another portion of said scrip, amounting to one hundred thousand dollars, shall be delivered as aforesaid: and *provided, also*, that whenever the aggregate amount of scrip that shall have been delivered to the treasurer of said company shall have reached the sum of one million

Proviso.

Proviso.

seven hundred thousand dollars, no further delivery of scrip shall be made until the whole of the tunnel through the Hoosac Mountain shall have been completed, of size not less than fourteen feet in width and eighteen feet in height from the bottom to the top of the excavation, and until the facades of the said tunnel and such portions as may require arching shall be finished with good substantial stone or brick masonry, and until the rails shall have been laid over the whole length of the road, including the tunnel, and the same constructed in such manner, and the necessary connections with other roads so finished, as will permit the convenient use of the same in the transportation of passengers and freight between the cities of Boston and Troy; but when such connections shall have been made, the tunnel fully completed and the road constructed as herein before provided, the balance of said scrip, amounting to three hundred thousand dollars, shall be delivered as aforesaid: and *provided, also*, that until the rails shall have been laid and the road put in running order between Greenfield and Shelburne Falls, the aggregate payments under this act shall not exceed one million dollars: and *provided, also*, that prior to the second delivery of scrip to the treasurer of the Troy and Greenfield Railroad Corporation, according to the provisions of this section, evidence shall be furnished, satisfactory to the governor and council, that a sum equal to thirty per cent. of the amount of the scrip then applied for, shall have been actually paid to the treasurer of said corporation, (in cash,) by the stockholders thereof, in addition to the one hundred and twenty thousand dollars to be paid prior to the delivery of any scrip, and that on each application for scrip, in pursuance of the provisions of this section, and prior to the delivery thereof, satisfactory evidence shall be furnished to the governor and council that a sum equal to thirty per cent. of the amount of scrip then applied for, has been actually paid to the treasurer of said corporation, until the six hundred thousand dollars subscribed for shall have been paid by the stockholders; and no scrip shall be delivered until satisfactory evidence of such payment is, from time to time, furnished to the governor and council: and *provided, also*, no scrip shall be delivered to the treasurer of said corporation until satisfactory evidence shall be furnished to the governor and council, that said corporation have expended in a reasonable manner, in excavating and completing said tunnel, and in grading, constructing and completing the line of road, a sum at least equal to the amount of all the preceding issues of scrip.

Proviso.

Proviso.

Proviso.

SECTION 2. The preceding section of this act shall not be so construed as necessarily to delay the opening of the road between Greenfield and Shelburne Falls, until after the completion of six thousand feet of tunnel; but whenever any portion of not less than three miles of said road shall have been graded between Greenfield and Shelburne Falls, as herein before provided, a portion of scrip, amounting to fifty thousand dollars, shall be delivered to the treasurer of the said company; and in case such payments shall have been previously made upon the road, the payments upon the completion of the third, fourth, fifth and sixth thousand feet of tunnel shall be reduced to thirty thousand dollars for each thousand feet of heading, and twenty thousand dollars for each thousand feet of tunnel of the required dimensions; but no portion of said scrip shall be delivered for any portion of said heading or tunnel, until the corresponding portion of the road shall have been graded as is herein before provided.

SECTION 3. Whenever the treasurer of said company shall receive any of said scrip, he shall offer the scrip, so received, to the treasurer of the Commonwealth for sale; and if the treasurer of the Commonwealth shall so require, being thereunto authorized by law, the treasurer of said company shall sell and dispose of the same to the treasurer of the Commonwealth, at the fair market value thereof, to be determined by the governor and council. If the treasurer of the Commonwealth shall decide to buy as aforesaid, then the treasurer of the company shall forthwith pay, to the commissioners of the sinking fund, ten per cent. on the amount of the scrip so taken, as a sinking fund. If the treasurer of the Commonwealth shall decide not to buy, as aforesaid, then the treasurer of the company, within three months after the receipt of any of said scrip, shall pay to the commissioners of the sinking fund, ten per cent. on the amount of the scrip so received, as a sinking fund. After the whole of said road is open for use, twenty-five thousand dollars annually, shall be set apart from the income of said road, and paid to said commissioners; and the whole thereof shall be added to said sinking fund, and shall be managed, invested and appropriated, as is or shall be provided by law in relation thereto.

Scrip to be offered
to treasurer of
Commonwealth
for sale.

SECTION 4. The preceding sections shall be in lieu of and be substituted for sections two and three of chapter two hundred and twenty-six of the acts of the year one thousand eight hundred and fifty-four, and the second section of said act is hereby repealed.

Act of 1854,
amended.

Time for completion extended.

SECTION 5. The time for completing the Troy and Greenfield Railroad, and Hoosac Tunnel, is hereby extended until December thirty-first, in the year one thousand eight hundred and sixty-five.

Subscriptions.

SECTION 6. Subscriptions, the instalments upon which are payable in cash, or in the scrip of the towns authorized to subscribe to the stock of the Troy and Greenfield Railroad Company, under the provisions of chapter three hundred and ninety-four of the acts of the year one thousand eight hundred and fifty-five, shall be considered as unconditional subscriptions, in compliance with the requirements of this act; and payment in the bonds of said towns shall be considered as cash.

Act when to take effect.

SECTION 7. This act shall take effect, whenever said company shall file, in the office of the secretary of state, a certified copy of any vote or votes accepting the same, which may be passed at any regular meeting of the stockholders of said company, or at any meeting specially called for that purpose.

Approved March 26, 1859.

Chap. 118

AN ACT TO EQUALIZE TAXATION.

Be it enacted, &c., as follows :

Taxes may be reassessed if invalid by reason of error in assessment.

SECTION 1. Every tax, not upon ratable polls, which is invalid by reason of any error or irregularity in the assessment thereof, where the estate assessed, or the person upon whom the assessment purports to have been made, was liable to taxation at the time of such supposed assessment, and which has not been paid, or having been received by the collector has been recovered back because of such error or irregularity, may be reassessed by the assessors for the time being, to the just amount to which, and upon the estate or to the person to whom, such tax ought at first to have been assessed, whether such person may have continued an inhabitant of the same town or not, in the mean time. And the same proceedings may be had and the same remedies resorted to in the collection of such tax, as are provided in the case of other taxes.

Shall constitute a lien on real estate.

SECTION 2. Taxes so reassessed on real estate shall constitute a lien thereon from the time they are committed to the collector, unless the estate has been alienated in the mean time between the first and second assessments.

Amount of tax not recoverable unless received after arrest, &c.

SECTION 3. The amount hereafter received as a tax by any collector shall not be recovered back in any action, unless it shall have been received after actual arrest of the person, or levy upon the goods, or notice of sale of the real

estate for such tax, or a protest in writing by the person or corporation supposed to be liable to pay the same.

SECTION 4. Whenever, by any erroneous or illegal assessment or apportionment of taxation, any party is assessed more or less than his due and legal proportion, such tax and assessment shall be void only to the extent of the illegal excess of taxation, whenever such exists; and no party shall recover, in any suit or process based upon such error or illegality, greater damages than the amount of such excess. And no sale, contract or levy shall be avoided by reason of such error or illegality, except when, and in so far as, it is avoided by such excess.

In excessive taxation amount of excess only to be recovered.

SECTION 5. This act shall take effect upon its passage.

Approved March 26, 1859.

AN ACT CONCERNING THE INVESTMENT OR DEPOSIT OF MONEY
BELONGING TO THE ESTATES OF INSOLVENT DEBTORS.

Chap. 119

Be it enacted, &c., as follows :

SECTION 1. Whenever it shall appear that the distribution of the estate of any insolvent debtor will be delayed by reason of litigation, or other good cause, the judge of probate and insolvency before whom the case may be pending, may direct the temporary investment of the moneys belonging to such estate, in securities to be approved by said judge; or the said judge of probate and insolvency may authorize such moneys to be deposited in any bank in this Commonwealth, upon interest, in which case it shall be lawful for the bank receiving such deposit, to contract with the assignee or assignees of such estate for the payment of interest thereon, at a rate not exceeding that established by law.

If distribution of insolvent estate is delayed, judge may order investment or deposit of the moneys.

SECTION 2. This act shall take effect from and after its passage.

Approved March 26, 1859.

AN ACT AUTHORIZING THE CITY OF CHARLESTOWN TO ESTABLISH A
FIRE DEPARTMENT.

Chap. 120

Be it enacted, &c., as follows :

SECTION 1. The city council of the city of Charlestown may establish a fire department for said city, to consist of as many engineers, officers, enginemen and members, as the city council, by ordinance, shall from time to time prescribe.

City council may establish.

SECTION 2. The city council shall have authority to make such provisions in regard to the time and mode of appointment, and the occasion and manner of the removal of either officers or members; to make such requisitions in respect to their qualifications and period of service; to define their office and duty; to fix and provide for the payment of their

Shall have authority, &c.

compensation ; and, generally, to make such regulations in regard to their conduct and government, and to the management and conduct of fires, and persons attending at fires, subject to penalties to be prescribed by ordinance, as they shall deem expedient: *provided*, such ordinances be not repugnant to the laws of the Commonwealth: and *provided, also*, that the appointment of enginemmen, hosemen and hook and ladder men shall be made by the mayor and aldermen.

Proviso.

Powers and duties.

SECTION 3. The powers and duties conferred and imposed by this act, may be carried into effect by the city council, in any manner they may prescribe, and through the agency of any person or board to whom they may delegate the same.

Act of 1840 repealed.

SECTION 4. The act entitled "An Act to establish a Fire Department in the Town of Charlestown," passed on the fifteenth day of February, in the year eighteen hundred and forty, is hereby repealed.

Act not to affect existing ordinances.

SECTION 5. This act shall take effect upon its passage ; but it shall not operate upon existing laws and ordinances relating to the fire department of the city of Charlestown, until it shall have been adopted by the city council thereof, and until said council shall have passed an ordinance establishing a fire department for said city under the authority of this act.

Approved March 26, 1859.

Chap. 121

AN ACT CONCERNING ELECTIONS.

Be it enacted, &c., as follows :

Duty of clerks of representative districts in cases of informal returns.

SECTION 1. Whenever, at any meeting of the clerks in any representative district, as provided in the three hundred and eleventh chapter of the acts of the year eighteen hundred and fifty-seven, any manifest error appears in the form of any return, the clerks shall forthwith give notice thereof to the officers whose duty it is to make such return, and such officers shall forthwith make a new return under oath, in conformity with the truth of the case, which return, whether made with or without such notice, shall be received and examined by said clerks at any time within two days of their meeting aforesaid ; and no returns shall be rejected, when the whole number of votes and the number given for each candidate can be ascertained.

Clerks may adjourn their meeting.

SECTION 2. Whenever necessary for carrying out the provisions of the first section of this act, the clerks shall adjourn their meeting, either to the next or second succeeding day, but no longer .

Penalty for false return.

SECTION 3. Any clerk wilfully signing any certificate not in conformity with the result of the election, as apparent in

the returns, shall be subject to a penalty not exceeding three hundred dollars.

SECTION 4. In addition to the blanks now required to be furnished, the secretary of the Commonwealth shall furnish each of the component towns of any representative district, blanks for the transcript of the record required by the fifth section of said three hundred and eleventh chapter.

Secretary to furnish blanks.

Approved March 26, 1859.

AN ACT RELATING TO ESSEX BRIDGE.

Chap. 122

Be it enacted, &c., as follows:

SECTION 1. The agent of Essex Bridge shall receive a salary of one hundred dollars per annum, which shall be in full for all his services.

Salary of agent.

SECTION 2. The tolls on said bridge for each coach which crosses the same as often as five times daily, and is used for the purpose of carrying passengers for hire, shall be four cents for each trip; but there shall be no commutation thereof, under the provisions of the one hundred and eighth chapter of the acts of the year one thousand eight hundred and fifty-eight.

Tolls.

SECTION 3. The agent shall pay over to the treasurer of the Commonwealth, quarterly, all moneys received for tolls upon said bridge.

Agent to pay over, &c.

SECTION 4. All moneys necessary for the repair, maintenance, improvement or construction of said bridge, and for the compensation of the agent aforesaid, and of the toll gatherers thereon, shall be paid by the treasurer of the Commonwealth out of the moneys in his hands arising from said tolls: *provided*, that no moneys shall be so paid by the treasurer, except in pursuance of appropriations made in each year by the general court. The balance of moneys arising from said tolls shall be passed by the treasurer to the credit of the Essex Bridge Fund, provided for by the fifth section of the one hundred and eighth chapter of the acts of the year one thousand eight hundred and fifty-eight, and invested according to the provisions of said section.

Expenses of bridge to be borne by Commonwealth.

Proviso.

SECTION 5. The said agent shall, within ten days after the passage of this act, and on or before the fifteenth day of January in each year hereafter, submit in writing to the speaker of the house of representatives an account of his expenditures for the year preceding, and a detailed estimate of the sums which in his judgment will be necessary to be expended upon said bridge, and the collection of tolls thereon, for the year then current.

Agent to submit account of expenses, and estimate.

To extend pier.

SECTION 6. The agent of said bridge is hereby authorized to extend the pier on the eastern side of the draw on said bridge, so that the entire length of said pier shall not exceed one hundred feet; and the expense of the same shall be considered as included in the necessary repairs on said bridge.

Buoys.

SECTION 7. It shall be a part of the duty of the agent of said bridge to keep two good and sufficient buoys connected therewith, one on the eastern, and the other on the western side of said bridge, the expense thereof to be included in the necessary repairs on said bridge.

SECTION 8. This act shall take effect upon its passage.

Approved March 26, 1859.

Chap. 123

AN ACT IN ADDITION TO AN ACT TO INCORPORATE THE EAST BOSTON LIBRARY ASSOCIATION.

Be it enacted, &c., as follows :

Name changed.

SECTION 1. The East Boston Library Association, a corporation established by the laws of this Commonwealth, passed in the year eighteen hundred and fifty-two, shall be hereafter known and called by the name of the Sumner Library Association.

Acts legalized.

SECTION 2. All the acts of said association in the organization thereof, and proceedings subsequent thereto, are hereby confirmed.

SECTION 3. This act shall take effect from and after its passage.

Approved March 26, 1859.

Chap. 124

AN ACT TO INCORPORATE THE WASHINGTONIAN HOME.

Be it enacted, &c., as follows :

Corporators.

Name.

Purpose.

Privileges, restrictions, &c.

Real and personal estate, \$40,000.

SECTION 1. Joseph Story, Isaac Emery and Thomas Russell, their associates and successors, are hereby made a corporation by the name of the Washingtonian Home, for the purpose of providing a retreat for inebriates and means for reforming them; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

SECTION 2. The said corporation may hold, for the purpose aforesaid, real estate to the amount of thirty thousand dollars, and personal estate to the amount of ten thousand dollars.

Approved March 26, 1859.

Chap. 125

AN ACT IN RELATION TO RAILROAD CROSSINGS.

Be it enacted, &c., as follows :

Act of 1849 amended.

SECTION 1. The second section of the two hundred and twenty-second chapter of the acts of the year eighteen

hundred and forty-nine, is hereby amended, by striking out the words "or travelled place," where they first occur therein.

SECTION 2. If the mayor and aldermen of any city, or the selectmen of any town, wherein any travelled place is crossed by any steam railroad, upon the same level therewith, shall be of opinion, in any particular case, that it is necessary, for the better security of the public, that the sign boards, required to be erected by the seventy-ninth section of the thirty-ninth chapter of the Revised Statutes, across turnpikes, highways or town ways, should be maintained at such travelled place, the said mayor and aldermen, or selectmen, may in writing request the corporation to which said railroad belongs, to erect and maintain such sign boards; and if said corporation shall neglect or refuse so to do, the said mayor and aldermen, or selectmen, may apply to the county commissioners to decide upon the reasonableness of such request; and if such commissioners, after due notice and hearing of the parties, shall decide that the erection of such sign boards is necessary for the better security of the public, the said railroad corporation shall comply with said decision, and shall pay the costs of the application; and if said commissioners shall be of opinion that the erection of the sign boards is not required as aforesaid, one-half of the costs of said application shall be paid by the said mayor and aldermen, or selectmen, and one-half thereof by said railroad corporation.

Erection of necessary sign boards upon request of selectmen or mayor and aldermen.

Upon refusal of corporation, county commissioners to decide.

Costs of reference to county commissioners.

SECTION 3. Whenever any railroad corporation shall erect sign boards in accordance with the provisions of the preceding section, they shall cause the bell upon their locomotive to be rung, at a distance of at least eighty rods from the place where said railroad crosses such travelled place, and it shall be kept ringing until the engine has crossed such travelled place.

Ring of bell upon approach of locomotive to crossings.

Approved March 28, 1859.

AN ACT RELATIVE TO HORSE AND STEAM RAILROAD CROSSINGS.
Be it enacted, &c., as follows:

Chap. 126

SECTION 1. The provisions of the first section of the four hundred and fifty-second chapter of the acts of eighteen hundred and fifty-five, shall not apply to cases where a steam railroad crosses a horse railroad at grade.

Act of 1855 not to apply.

SECTION 2. Whenever any horse railroad crosses or is crossed by any steam railroad at grade, it shall be the duty of the driver of the car upon such horse railroad, when approaching the point of intersection of said railroads, to stop his car within one hundred feet of such railroad crossing; and for every violation of this act, the driver so offend-

Cars of horse railroads to stop at crossings.

Penalty.

ing shall forfeit and pay the sum of five dollars, and the corporation on whose railroad such offence shall be committed, shall forfeit and pay the further sum of ten dollars.

Forfeitures.

SECTION 3. All forfeitures under this act, shall be recovered and appropriated according to the provisions of the second section of the four hundred and fifty-second chapter of the acts of eighteen hundred and fifty-five.

Approved March 28, 1859.

Chap. 127

AN ACT TO SECURE THE PAYMENT OF RENTS.

Be it enacted, &c., as follows :

Rent of dwelling-house.

Debts for the rent of a dwelling-house, occupied by the debtor or his family, shall be held to be claims for necessities, in all the courts of this Commonwealth.

Approved March 28, 1859.

Chap. 128

AN ACT RELATING TO THE DIVISION OF WATER-RIGHTS.

Be it enacted, &c., as follows :

Chap. 74, acts of 1854 modified.

Under the provisions of chapter seventy-four of the acts of eighteen hundred and fifty-four, partition may be made of the water of a natural stream not navigable, the banks of which are owned by different riparian proprietors.

Approved March 28, 1859.

Chap. 129

AN ACT TO REPEAL AN ACT AUTHORIZING THE COURTS TO SENTENCE CERTAIN PERSONS TO THE HOSPITAL AT RAINSFORD ISLAND.

Be it enacted, &c., as follows :

Chap. 52, acts of 1855 repealed.

The fifty-second chapter of the acts of eighteen hundred and fifty-five, authorizing the police and municipal courts of the city of Boston to commit certain persons to the hospital at Rainsford Island, is hereby repealed.

Approved March 28, 1859.

Chap. 130

AN ACT TO PROTECT CUT BEACH, IN THE TOWN OF GLOUCESTER.

Be it enacted, &c., as follows :

Removal of sand, &c., without permission, prohibited.

SECTION 1. No person shall carry away or remove, by land or water, any sand, stones, gravel or dirt, from the beach or upland lying south of and adjoining Western Avenue, formerly Canal Street, in the town of Gloucester, extending from the old fort to the upland of Benjamin K. Hough and others, without permission first obtained from the selectmen of said town of Gloucester, or from some person or persons duly authorized by the selectmen of said town to grant such permission.

Penalty.

SECTION 2. Any person who shall offend against any of the provisions of this act, shall forfeit and pay, for each

offence, a sum not exceeding twenty dollars, to be recovered by complaint or indictment in any court of competent jurisdiction, one-half for the use of the complainant, the other half for the use of said town of Gloucester.

Approved March 28, 1859.

AN ACT RELATING TO BAIL IN CRIMINAL CASES.

Chap. 131

Be it enacted, &c., as follows :

Bail in criminal cases, may exonerate themselves in the following manner :

Bail may be discharged.

First—Before the commencement of an action of *scire facias* on the recognizance, they may surrender the principal into court.

By surrender before action.

Second—Before the commencement of such action, in the manner provided in the act of eighteen hundred and fifty-one, chapter ninety-two.

Before commencement under chap. 92, of 1851.

Third—After suit commenced, but before judgment on *scire facias*, they may surrender the principal into court ; but the court, in such case, may, at their discretion, exact of the bail, payment of the whole or any portion of the costs or penalty.

After commencement before judgment.

Fourth—After final judgment on the *scire facias*, and either before or after satisfaction of such judgment, the bail may take and surrender the principal, in the manner provided by the act of eighteen hundred and fifty-one aforesaid, or into court, and may thereupon, as of right, sue out a writ of review, and have such judgment revised and reversed, in whole or in part, as justice may require : and the writ of review shall be served by copy upon the attorney of the Commonwealth, for the county or district in which such court is to sit, fourteen days, at least, before the same is returnable ; and the proceedings upon the trial and judgment, in said review, shall conform to the provisions of the act of eighteen hundred and fifty-two, chapter one hundred and twenty-six.

After final judgment, &c.

Fifth—If, without fault on their part, but by reason of the act of God, or of the government of the United States, or of any State, or by sentence of the law, bail are unable to surrender the principal, they shall, on motion made, before final judgment on the *scire facias*, be exonerated and discharged by the court, with or without costs, as the court may deem equitable : *provided, always*, that if the principal shall have been surrendered by his bail, as above provided, and bailed anew, such principal or his bail shall not have, a second time, any benefit of the provisions of this act.

If unable to surrender, in certain cases.

Approved March 28, 1859.

Chap. 132 AN ACT PROVIDING FOR THE REGISTRATION OF SURVEYS MADE IN LAYING OUT HIGHWAYS.

Be it enacted, &c., as follows :

Description to be
filed in the town
clerk's office.

SECTION 1. Whenever a street, road or way shall hereafter be laid out by the county commissioners of any county, or the selectmen of any town, in this Commonwealth, the said officers so laying out the same shall, after the same is completed, cause a full and accurate description of the location and bounds thereof, duly verified by their official signatures, to be filed in the office of the clerk of the town or towns within which the same may lie.

Clerk to make
record.

SECTION 2. It shall be the duty of the clerk of any town with whom such description is thus filed, to record the same, or as much of the same as relates to roads located within the limits of said town, within ten days thereafter, in a book to be provided at the expense of the town, and kept exclusively for such records; the clerk's fees for recording to be paid in like manner with the other expenses of locating and building such road, street or way.

Erection of
bounds.

SECTION 3. The bounds erected at the termini and angles of all roads, shall either be such as are required by chapter one hundred and ninety-two of the statutes of the year eighteen hundred and forty-eight, or permanent stone bounds not less than three feet in length, with holes drilled therein and filled with lead, placed a few inches below the travelled part of the road, street or way, as the officers whose duty it is to cause the same to be erected, may determine.

Investigation of
bounds to be
made upon rep-
resentation of ten
or more freehold-
ers.

SECTION 4. Whenever ten or more freeholders, legal citizens, shall represent in writing, to the county commissioners of any county, or the selectmen of any town in this Commonwealth, that the exact location and bounds of any street, road or way, over which they respectively have jurisdiction, cannot readily be ascertained, it shall be their duty to make investigation thereof, and if it shall appear that the representation is correct, they shall, after giving similar notice as is required in the laying out of roads or ways, proceed to ascertain the correct location, and erect the necessary bounds, and cause a certificate of the same to be duly filed and recorded, and public notice thereof given, in like manner as herein before required. *Approved March 29, 1859.*

Chap. 133 AN ACT TO ESTABLISH THE SALARY OF THE SECOND CLERK IN THE OFFICE OF THE SECRETARY OF THE COMMONWEALTH.

Be it enacted, &c., as follows :

Salary.

SECTION 1. The salary of the second clerk in the office of the secretary of the Commonwealth, shall be fourteen

hundred dollars per annum, to be computed from and after the first day of January, in the year one thousand eight hundred and fifty-nine.

SECTION 2. All acts and parts of acts inconsistent herewith, are hereby repealed.

Approved March 29, 1859.

AN ACT LEGALIZING THE PROCEEDINGS AND RECORDS OF THE PROPRIETORS OF THE UNION MEETING-HOUSE IN WORCESTER.

Chap. 134

Be it enacted, &c., as follows:

The proceedings of the proprietors of the Union Meeting-House in Worcester, so far as relates to the sale and conveyance of the real estate of said proprietors, to the Union Society, of Worcester; and all the votes and records of said proprietors, so far as the same relate to said sale and conveyance of said real estate to said society, are hereby legalized and confirmed; and said Union Society in Worcester is hereby authorized to borrow a sum or sums of money, sufficient to pay the present or future indebtedness of said Union Society in Worcester, and to secure said sum or sums by a mortgage or mortgages on said real estate.

Acts legalized.

May borrow money, &c.

Approved March 29, 1859.

AN ACT MAKING APPROPRIATIONS TO PAY CERTAIN EXPENSES OF THE YEAR ONE THOUSAND EIGHT HUNDRED AND FIFTY-EIGHT, AND PREVIOUS YEARS.

Chap. 135

Be it enacted, &c., as follows:

SECTION 1. The sums hereinafter mentioned are appropriated, and shall be allowed and paid out of the treasury of the Commonwealth, upon the warrants of the governor, to meet certain expenses belonging to the year one thousand eight hundred and fifty-eight, and previous years;

Appropriations. 1858, and prior.

That is to say, for the year one thousand eight hundred and fifty-eight, as follows, namely:

For books, ordered by the legislature, the sum of thirty-one dollars and fifty cents.

Books.

For stationery, ordered by the sergeant-at-arms, the sum of one hundred and seventy-two dollars and ninety-seven cents.

Stationery.

For printing, ordered by the sergeant-at-arms, the sum of one hundred and ninety-two dollars ninety-eight cents.

Printing.

For advertising for the legislature, a sum not exceeding seventy-five dollars.

Advertising.

For printing general laws, the sum of three hundred and eighty-three dollars nineteen cents.

Printing general laws.

For extra clerk hire and incidentals in the auditor's office, the sum of one hundred and thirty dollars.

Auditor's office.

- Insolvency courts.** For certain expenses of insolvency courts, the sum of six hundred dollars.
- Attorney-general's office.** For expenses of the attorney-general's office, for costs, fees and court charges in civil cases in which the Commonwealth was a party, and for printing briefs, a sum not exceeding seventy-five dollars.
- Insurance commissioners.** For compensation, mileage and expenses of the insurance commissioners, a sum not exceeding five hundred dollars.
- Board of agriculture.** For expenses of the secretary of the board of agriculture, the sum of seventy-two dollars forty cents.
- Rainsford Island Hospital.** For expenses of Rainsford Island Hospital, a sum not exceeding one thousand two hundred dollars.
- State paupers.** For the support and relief of state paupers, otherwise than in the three almshouses and in the hospital at Rainsford Island, a sum not exceeding eleven thousand five hundred dollars.
- Pensions.** For pensions, a sum not exceeding two hundred dollars.
- Annuities, Martha Johonnot.** For annuities due from the Commonwealth on account of the obligations incurred by the acceptance of the bequests of the late Martha Johonnot, the sum of one hundred dollars.
- Superintendent of alien passengers.** For compensation and expenses of superintendent of alien passengers, according to law, a sum not exceeding fifty dollars.
- Adjutant-general's office.** For incidental expenses in the adjutant and quartermaster-general's office, a sum not exceeding one hundred dollars.
- Militia bounty.** For militia bounty, a sum not exceeding one thousand eight hundred dollars.
- Military accounts.** For military accounts, a sum not exceeding two thousand seven hundred dollars.
- Criminal prosecutions.** To reimburse the treasurers of the several counties, two-thirds of the costs of criminal prosecutions, in the manner prescribed by law, the sum of thirty-seven thousand five hundred and fifty dollars.
- Legislature and council.** Contingent expenses of the legislature and council, a sum not exceeding seven hundred dollars.
- Insurance penalties.** For the purpose of refunding insurance penalties, in accordance with chapter one hundred and seventy of the acts of the year one thousand eight hundred and fifty-eight, the sum of four hundred and twenty-five dollars.
- Council, compensation.** For mileage and compensation of the lieutenant governor and council, a sum not exceeding seven hundred and one dollars.
- Board of agriculture.** For incidental expenses of the board of agriculture, one hundred and fifty dollars.

For travelling expenses of the members of the board of agriculture, two hundred thirty-one dollars and eight cents.

For printing and binding the series of public documents, a sum not exceeding two thousand dollars.

Printing public documents.

For repairs, improvements and furniture of the state house, a sum not exceeding one hundred dollars.

State house.

For the payment of the fees of counsel, for their services in the suit of the Commonwealth against the city of Roxbury and the town of West Roxbury, the sum of one thousand three hundred and ten dollars seventy-six cents; and for the compensation of the commissioners on the Back Bay, the sum of sixty-eight dollars: both these items to be paid from the moiety of the proceeds of the sales of the Back Bay lands, by law applicable to improvements.

Counsel in Commonwealth vs. Roxbury, &c.

Commissioners on Back Bay.

For term reports, according to the resolve of the year one thousand eight hundred and eleven, chapter fifty-eight, and subsequent resolves on that subject, the sum of seventy-six dollars and seventy cents.

Term reports.

For the compensation and expenses of the joint special committee on public charitable institutions, appointed under chapter twenty-six of the resolves of the year one thousand eight hundred and fifty-eight, a sum not exceeding three hundred dollars.

Committee on charitable institutions.

For the year one thousand eight hundred and fifty-seven, 1857. and previous years, as follows, namely:

For militia bounty, a sum not exceeding one hundred dollars.

Militia bounty.

For military accounts, a sum not exceeding one hundred and seventy-five dollars.

Accounts.

For state printing, a sum not exceeding five hundred dollars.

Printing.

For newspaper accounts, a sum not exceeding one hundred dollars.

Newspapers.

For annuities due from the Commonwealth on account of the obligations incurred by the acceptance of the bequests of the late Martha Johonnot, two hundred dollars.

Annuities. Martha Johonnot.

For sundry items of expenditure of the commissioners on the revision of the statutes, a sum not exceeding two hundred and ten dollars.

Commissioners on revision of statutes.

For extra clerk hire in the treasurer's office, a sum not exceeding two hundred dollars.

Treasurer's office.

For amount of expenses of Rainsford Island Hospital, the sum of two hundred dollars.

Rainsford Island Hospital.

For the legal expenses and counsel fees, incurred by authority of the governor and council, in the defence of the

Counsel—Proctor vs. Stone.

case of *Proctor versus Stone*, a sum not exceeding one hundred dollars.

Appropriations,
how paid.

SECTION 2. The appropriations made in this bill shall be paid from the ordinary revenue, in all cases, except where a different provision is herein made.

SECTION 3. This act shall take effect from and after its passage.

Approved March 31, 1859.

Chap. 136

AN ACT CONCERNING SCHOOL DISTRICTS.

Be it enacted, &c., as follows :

Certain expendi-
tures by school
committee au-
thorized, in case,
&c.

If any school district shall neglect to organize by the choice of officers, the money necessary for the hiring, erection, repair or enlargement of a school-house therein, may be expended by order of the school committee, and upon their certificate, shall be assessed upon the polls and estates of the inhabitants of the district, and shall be collected like other district taxes, and paid into the treasury of the city or town.

Approved March 31, 1859.

Chap. 137

AN ACT CONCERNING DRAINS AND SEWERS IN THE CITY OF CAMBRIDGE.

Be it enacted, &c., as follows :

City council to
make and main-
tain all necessary
drains and sew-
ers.

SECTION 1. The city council of the city of Cambridge may lay, make and maintain, in the said city, all such main drains or common sewers, through the lands of any persons or corporations, as they shall adjudge to be necessary for the public convenience or the public health ; and may repair all such main drains or common sewers, from time to time, whenever repairs thereof shall be necessary.

Manner of pro-
ceeding in the
taking of real
estate.

SECTION 2. Whenever any lands or real estate shall be taken by virtue of this act, the said city council shall proceed, in the taking thereof, in the same manner, in all respects, as they now are, or hereafter may be required by law to proceed in taking land for public highways or streets ; and all persons and corporations suffering damage in their property, by reason of the laying, making or maintaining of any main drain or common sewer, as aforesaid, shall have all the rights and remedies for the ascertainment and the recovery of the amount of such damage, which are now, or hereafter may be provided by law, for the ascertainment and recovery of damages for lands taken in said city of Cambridge for public highways or streets.

SECTION 3. This act shall take effect upon its passage.

Approved March 31, 1859.

AN ACT CONCERNING THE POLICE COURT IN PITTSFIELD.

Chap. 138

Be it enacted, §c., as follows :

Chapter three hundred and ten of the acts of the year eighteen hundred and fifty, is hereby so amended, that the justice therein mentioned, is allowed to retain out of the fees received by him, for his services as such justice, the sum of six hundred dollars.

Approved March 31, 1859.

Salary of justice.
Chap. 310, 1850,
amended.

AN ACT IN RELATION TO RETURNS FROM JAILS AND HOUSES OF CORRECTION.

Chap. 139

Be it enacted, §c., as follows :

SECTION 1. The sheriffs and overseers of the houses of correction of the several counties shall, annually, on or before the fifteenth day of October, make out and transmit to the secretary of the Commonwealth, a return concerning the jails and houses of correction, for the year ending on the last day of September preceding, which return shall contain full and true answers to the following inquiries :

Form of annual
returns to the
secretary of the
Commonwealth.

JAILS.

Number of prisoners in jail October first.
 Number committed during the year.
 Number of males.
 Number of females.
 Number of adults.
 Number of minors.
 Number of whites.
 Number of colored.
 Number of natives of this State.
 Number of natives of other States.
 Number of natives of other countries.
 Number who cannot read nor write.
 Number of natives of Massachusetts who cannot read nor write.
 Number who have been married.
 Number who have been intemperate.
 Number who have been in prison before.
 Number committed as insane.
 Number committed for debt.
 Number committed as witnesses.
 Number committed for trial or examination.
 Number sentenced for murder.
 Number sentenced for manslaughter.
 Number sentenced for setting fires.
 Number sentenced for robbery.
 Number sentenced for rape.
 Number sentenced for attempts at rape.
 Number sentenced for adultery.
 Number sentenced for lewd conduct.
 Number sentenced for assault.
 Number sentenced for burglary.
 Number sentenced for perjury.
 Number sentenced for forgery.

Number sentenced for larceny.
 Number sentenced for making or passing counterfeit money.
 Number sentenced for drunkenness.
 Number sentenced as common drunkards.
 Number sentenced for violation of liquor law.
 Number sentenced for keeping houses of ill-fame.
 Number sentenced for all other offences.
 Number discharged by writ of *habeas corpus*.
 Number discharged by being recognized or bailed.
 Number discharged by payment of fines and costs.
 Number discharged by expiration of sentence.
 Number discharged as poor convicts, unable to pay fines and costs.
 Number transferred to other jails for trial.
 Number sent to court and not returned.
 Number executed.
 Number sent to the state prison.
 Number sent to the house of correction.
 Number sent to the state reform school.
 Number escaped and not retaken.
 Number of debtors discharged on payment of debt.
 Number discharged by taking poor debtor's oath.
 Number discharged by order of creditor.
 Number of witnesses discharged.
 Number of prisoners that died.
 Number discharged by processes not specified above.
 Number remaining in confinement September thirtieth.
 Amount expended for provisions.
 Amount expended for clothing.
 Amount expended for fuel.
 Amount expended for light.
 Amount expended for medicines.
 Amount expended for medical attendance.
 Amount expended for beds and bedding.
 Amount expended for instruction.
 Amount of allowance to discharged prisoners.
 Amount of allowance to witnesses.
 Amount of officers' salaries.
 Amount of expenses of all kinds.
 Average number of prisoners.
 Value of the labor of prisoners.

HOUSES OF CORRECTION.

Number in confinement October first.
 Number committed during the year.
 Number of males.
 Number of females.
 Number of adults.
 Number of minors.
 Number of whites.
 Number of colored.
 Number of natives of this State.
 Number of natives of other States.
 Number of natives of other countries.
 Number who cannot read nor write.
 Number of natives of Massachusetts who cannot read nor write.
 Number who have been married.

Number who have been intemperate.
 Number who were insane when committed.
 Number who became insane in prison.
 Number who have been in prison before.
 Number committed for adultery.
 Number committed for lewd conduct.
 Number committed for keeping houses of ill-fame.
 Number committed for assault.
 Number committed for violation of liquor law.
 Number committed for drunkenness.
 Number committed as common drunkards.
 Number committed for larceny.
 Number committed for vagrancy.
 Number committed for all other offences.
 Number discharged on expiration of sentence.
 Number discharged on payment of fines and costs.
 Number discharged as poor convicts, unable to pay fines and costs.
 Number discharged on *habeas corpus*.
 Number discharged on account of sickness.
 Number discharged on account of insanity.
 Number discharged by order of overseers.
 Number escaped and not retaken.
 Number that have died.
 Number discharged by processes not specified above.
 Number remaining in confinement September thirtieth.
 Amount expended for provisions.
 Amount expended for clothing.
 Amount expended for fuel.
 Amount expended for light.
 Amount expended for medicines.
 Amount expended for medical attendance.
 Amount expended for beds and bedding.
 Amount expended for instruction.
 Amount of allowance to discharged prisoners.
 Amount of officers' salaries.
 Amount of expenses of all kinds.
 Average number of prisoners.
 Value of labor of prisoners.

SECTION 2. The secretary of the Commonwealth shall, in the month of September annually, furnish the sheriffs and overseers of the houses of correction in the several counties, with blank forms of returns, which shall contain the foregoing interrogatories, and a copy of the two following sections of this act, and shall, as soon as practicable after the fifteenth day of October of each year, make out an abstract of the returns made to him, with such explanatory remarks as he may deem proper, and cause the same to be printed for the use of the legislature.

Secretary to furnish blanks for returns, and publish abstract.

SECTION 3. If the sheriff of any county, or the overseer of any house of correction, shall refuse or neglect to make any of the returns aforesaid, he shall forfeit the sum of one hundred dollars.

Penalty for omitting to make return.

Secretary to notify district-attorney, who shall prosecute.

SECTION 4. It shall be the duty of the secretary of the Commonwealth, as soon as he shall find that the sheriff of any county, or the overseer of any house of correction, is liable to the fine imposed upon them by the third section of this act, forthwith to notify the district-attorney for the district in which said sheriff or overseer may reside, and he shall immediately bring a complaint against said sheriff or overseer; and all fines and forfeitures so recovered shall be applied for the relief of discharged convicts in said county.

Calendar and prison-book, in jails and houses of correction, how to be kept.

SECTION 5. This act shall take effect upon its passage; after which time the calendar and prison-book of the several jails and houses of correction shall be kept in such a manner that true answers can be made to the interrogatories propounded by this act; and any jailer or master of a house of correction, or other person having charge thereof, who shall fail or neglect to keep such a calendar and prison-book, as aforesaid, and to enter under the proper heads upon said calendar, true answers to all the questions in section first, relating to the prisoners, and upon the prison-book a classified account of all purchases for the support of the institution, (said account to be itemized as follows: first, cost of provisions for the prisoners, including such portion of the same as may be consumed by the family of the jailer or master of the house of correction; second, cost of clothing; third, cost of beds and bedding; fourth, cost of medicines; fifth, cost of medical attendance; sixth, cost of instruction, religious or otherwise; seventh, cost of fuel; eighth, cost of light; ninth, allowance to discharged prisoners; tenth, allowance to witnesses in money or clothing;) shall forfeit one hundred dollars for such neglect or refusal, to be recovered by the county commissioners, in any competent court in this Commonwealth; said forfeiture to be expended for the relief of discharged prisoners, in the county where said fine is recovered.

Penalty for neglecting to keep.

Repeal.

SECTION 6. All acts or parts of acts inconsistent with this act are hereby repealed.

Approved March 31, 1859.

Chap. 140

AN ACT TO FIX THE TIME OF THE ANNUAL MEETING OF THE WORCESTER COUNTY INSTITUTION FOR SAVINGS.

Be it enacted, &c., as follows:

Time for annual meeting fixed.

SECTION 1. The annual meeting of the Worcester County Institution for Savings, shall be held on the first Wednesday evening in April, or at such other time in said month, as the trustees of said institution shall direct.

Repeal.

SECTION 2. All acts and parts of acts inconsistent herewith, are hereby repealed.

SECTION 3. This act shall take effect upon its passage.

Approved March 31, 1859.

AN ACT TO INCORPORATE THE BOSTON MECHANICAL BAKERY COMPANY. *Chap. 141*

Be it enacted, &c., as follows:

SECTION 1. Joseph G. Russell, William B. Phelps and Augustus O. Brewster, their associates and successors, are hereby made a corporation, by the name of the Boston Mechanical Bakery Company, for the purpose of manufacturing bread in the city of Boston, in the county of Suffolk; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the thirty-eighth and forty-fourth chapters of the Revised Statutes.

Corporators.

Name.

Purpose.

Location.

Privileges, restrictions, &c.

SECTION 2. The said corporation may hold real and personal estate necessary and convenient for the purpose aforesaid, not exceeding in amount two hundred thousand dollars: *provided*, that no shares in the capital stock of said corporation shall be issued for a less sum or amount, than the par value of the shares which shall be first issued.

Real and personal estate, \$200,000.

Proviso.

SECTION 3. This act shall take effect from and after its passage.

Approved April 1, 1859.

AN ACT EXEMPTING CERTAIN ARTICLES FROM EXECUTION.

Chap. 142

Be it enacted, &c., as follows:

The boat, fishing-tackle and nets of fishermen, actually used by them in the prosecution of their business, shall be exempted from execution to the amount of one hundred dollars.

Exemption of boat, nets, &c., of fishermen.

Approved April 1, 1859.

AN ACT IN ADDITION TO THE SEVERAL ACTS CONCERNING SPECIAL ADMINISTRATORS. *Chap. 143*

Be it enacted, &c., as follows:

SECTION 1. Whenever by reason of a suit concerning the proof of a will, there shall be delay in the granting of letters testamentary or of administration, and a special administrator shall be appointed, with authority, under the provisions of the sixth sections of the sixty-fourth chapter of the Revised Statutes, and of the one hundred and twenty-second chapter of the statutes of eighteen hundred and fifty-eight, to collect and preserve the effects of the deceased, and to take charge of his real estate and collect the rents thereof, an allowance by way of advance may be made out of the income of the personal or the rents of the real estate, for the support of the widow and children of the deceased, during the pendency of such suit.

Allowance may be made to widow and children during pendency of suit.

SECTION 2. The allowance shall be made upon the petition of the widow or children, or either or any of them, and after notice to all parties interested in the estate, by the

Petition and notice.

judge of probate and insolvency for the county where such suit is pending.

Limitation of allowance. SECTION 3. Such allowance shall, in all cases, be limited to such portion of the income of the personal, and of the rents of the real estate, as the petitioner would be entitled to receive, whether the will were admitted to probate or not.

Appeal from the granting or refusal. SECTION 4. Any appeal from the granting or refusal to grant such allowance, may be heard summarily by any one of the justices of the supreme judicial court, in term time or in vacation ; any question of law arising on such appeal being reserved for the whole court.

Hearing, not to prevent. SECTION 5. The hearing of an appeal from a decree making such allowance for the support of the widow or children, shall not prevent the payment of the sum or sums so ordered : *provided*, the petitioner shall give to the special administrator a bond, with one or more sureties, to be approved by the judge of probate and insolvency, with condition to repay to the special administrator the sum or sums so allowed, if the decree for allowance should be reversed by the supreme court.

Proviso. SECTION 6. Special administrators may, upon leave for that purpose first had and obtained from the judge of probate and insolvency, pay out of the personal estate in their hands, the necessary funeral expenses of the deceased, and those of his last sickness.

Funeral expenses of deceased. SECTION 7. This act shall take effect from and after its passage.

Approved April 1, 1859.

Chap. 144 AN ACT TO INCORPORATE THE CLIFTONDALE RAILROAD COMPANY.
Be it enacted, &c., as follows :

Corporators. SECTION 1. Joseph C. Roberts, James M. Stone and Edward Healey, their associates and successors, are hereby made a corporation by the name of the Cliftondale Railroad Company, with power to construct, maintain and use, a railway or railways, with convenient single or double tracks, from such point or points in the town of Saugus as shall be fixed by the selectmen of the said town, with the assent, in writing, of said corporation, filed with said selectmen, and upon and over such of the streets and highways of said town as shall be, from time to time, fixed and determined by said selectmen, with the assent in writing of said corporation, filed as aforesaid, to the intersection of the same with the streets and highways of the town of North Chelsea, and of the town of Malden, and then upon and over such of the streets and highways of the towns of North Chelsea and Malden and the city of Chelsea, as shall be, from time to time, fixed and determined by the select-

men of said towns, respectively, within the limits of their respective towns, and by the mayor and aldermen of said city, within the limits thereof, with the assent in writing of said corporation, filed with the selectmen of said towns, or the mayor and aldermen of said city, respectively, by whom said streets and highways shall be fixed and determined as aforesaid, and also over and upon such other land in said towns, as said corporation may elect to build their road or roads upon and over, to some convenient point of intersection, in the town of Malden, with the railroad of the Malden and Melrose Railroad Company, such point of intersection to be fixed by the selectmen of said town of Malden; or said corporation, if they so elect, instead of intersecting with the railroad of said Malden and Melrose Railroad Company, may proceed, as herein before provided, to some convenient point of intersection with the railroad of the Boston and Chelsea Railroad Company, or to some convenient point of intersection with any other railroad, which may hereafter be constructed, and connected with the railroad of said Boston and Chelsea Railroad Company, such point of intersection, in either case, to be fixed by the mayor and aldermen of the city of Chelsea, if it shall be in said city, or by the selectmen of the town of North Chelsea, if it shall be in said town; and said corporation may extend their aforesaid railway, and maintain and use the same, from such point in the town of Saugus as shall be fixed by the selectmen of said town, with the assent in writing of said corporation, filed with said selectmen, upon and over such streets and highways in said town, as shall be, from time to time, fixed and determined by said selectmen, with the assent in writing of said corporation, filed with said said selectmen, to the intersection of the same with the streets and highways of the city of Lynn, thence upon and over such of the streets and highways of said city, as shall be, from time to time, fixed and determined by the mayor and aldermen of said city, with the assent in writing of said corporation, filed with said mayor and aldermen; and all tracks of said railroad shall be laid at such distances from the sidewalks in said towns and cities, as the selectmen of said towns, and the mayor and aldermen of said cities shall, respectively, within the limits of their several jurisdictions, in their orders fixing the routes of said railroad, determine to be for the public safety and convenience. Before the location or construction of any track in any street or highway, as aforesaid, in any of said towns or cities, the selectmen of any said town, and the mayor and aldermen of any said city shall give notice to the abutters thereon, fourteen

Tracks, how laid.

Notice to abutters.

Rates of fare.

days at least, before the location of any such track, by publication in such newspaper as said selectmen, or said mayor and aldermen, shall determine. And said corporation shall have power to fix, from time to time, such rates of compensation for transporting persons and property as they may think expedient; and shall have all the powers and privileges, and be subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

May use other tracks.

SECTION 2. The corporation hereby created, may enter upon and use the tracks of the Malden and Melrose Railroad Company, and the tracks of the Middlesex Railroad Company, and the tracks of the Boston and Chelsea Railroad Company, and also the tracks of any other railroad company, with which the said Clifondale Railroad Company is by this act authorized to intersect, in such mode, and upon such rates of compensation as may be agreed upon; or, in case of disagreement with either of said companies, such mode and rates shall be fixed by three commissioners, to be appointed by the supreme judicial court, the expenses of said commissioners to be paid by said Clifondale Railroad Corporation.

Horse-power only.

SECTION 3. Said tracks or roads shall be operated and used by said corporation with horse-power only; and the selectmen of said towns, and the mayor and aldermen of said cities, shall have power at all times, to make all such regulations as to the rate of speed and mode of use of the tracks, as the public convenience and safety may require, within the limits of their respective corporations.

Repairs, &c.

SECTION 4. Said corporation shall keep and maintain in repair, such portion of the streets and bridges respectively, as shall be occupied by their tracks, and shall be liable for any loss or injury that any person may sustain by reason of any carelessness, neglect or misconduct of its agents and servants, in the management, construction or use of said tracks, roads or bridges; and in case any recovery shall be had against either of said towns or cities, by reason of such defect or want of repair, said corporation shall be liable to pay to such towns or cities respectively, or either of them, any sums thus recovered against them, together with all costs and reasonable expenditures incurred by them respectively, in defence of any such suit or suits, in which recovery may be had; and said corporation shall not incur any portion of the streets or bridges not occupied by said road or tracks.

Penalty for obstructing tracks.

SECTION 5. If any person shall wilfully and maliciously obstruct said corporation in the use of said road or tracks, or the passing of the cars or carriages of said corporation

thereon, such person, and all who shall be aiding or abetting therein, shall be punished by a fine not exceeding five hundred dollars, or may be imprisoned in the common jail for a period not exceeding three months.

SECTION 6. If said corporation, or its agents or servants, shall wilfully and maliciously obstruct any highway, or the passing of any carriages over the same, such corporation shall be punished by a fine not exceeding five hundred dollars.

Penalty for obstructing highway.

SECTION 7. The capital stock of said corporation shall not exceed one hundred and fifty thousand dollars, to be divided into shares of one hundred dollars each; and no shares in the capital stock shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued.

Capital stock \$150,000.
Shares \$100.

SECTION 8. Said corporation shall have power to purchase and hold such real estate within said towns and cities, or either of them, as may be convenient or necessary for the purposes and management of said road.

May hold real estate.

SECTION 9. Said corporation is hereby authorized to issue bonds for the purpose of constructing or equipping their road, the amount thereof not to exceed the amount of capital stock paid in, of the same kind, in the same manner, upon the same terms, conditions and restrictions, and to be approved, certified, recorded and secured, in all respects, in the same way as the Cambridge Railroad have been authorized by law to issue bonds.

May issue bonds.

SECTION 10. The said road shall be constructed and maintained in such form and manner, and upon such grade, as the selectmen of said towns, or the mayor and aldermen of said cities, respectively, may, in their votes fixing and determining the routes thereof, as aforesaid, prescribe and direct; and whenever, in the judgment of said corporation, it shall be necessary to alter the grade of any street so occupied by it, such alteration may be made at the sole expense of said corporation: *provided*, the same shall be assented to by the selectmen of the town, or the mayor and aldermen of the city, within which such alteration is to be made.

Grade of road.

Proviso.

SECTION 11. Nothing in this act shall be construed to prevent the selectmen of either of said towns, or the mayor and aldermen of either of said cities, from entering upon, and taking up any of the public streets or bridges, traversed by said railroad, for any purpose for which they may now lawfully take up the same.

Act not to prevent authorities. &c.

Act void, unless. SECTION 12. This act shall be void, so far as relates to the right to construct said road in either of said towns and cities, unless the same shall be accepted by the selectmen of such town, or the mayor and aldermen of such city, respectively, and unless said railroad shall be constructed therein on or before the first day of November, in the year eighteen hundred and sixty; and unless this act shall be accepted by said corporation, and ten per cent. of the capital stock thereof shall be paid in, within one year from the passage of this act.

Returns. SECTION 13. Said corporation shall be deemed a railroad corporation, so far as to be subject to make such annual returns to the legislature as are, or may be, prescribed by law; and also so far as to be subject to all existing provisions of law for the assessment and payment of damages for the land, outside of the streets, taken by them for their tracks, but not to the other general provisions of law in relation to railroad corporations.

Approved April 1, 1859.

Chap. 145 AN ACT TO INCORPORATE THE HIGHLAND AGRICULTURAL SOCIETY.

Be it enacted, &c., as follows:

Corporators. Matthew Smith, Hiram Taylor, Charles Wright, their associates and successors, of Hampshire, Berkshire and Hampden counties, are hereby made a corporation, under the name of the Highland Agricultural Society, for the encouragement of agriculture and the mechanic arts, by premiums and other means, in the town of Middlefield, in the county of Hampshire; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-second and forty-fourth chapters of the Revised Statutes, and in all subsequent acts concerning agricultural societies: and said corporation may hold and manage real estate not exceeding in value two thousand dollars, and personal estate not exceeding the same sum, for the purposes aforesaid, any provisions of law to the contrary notwithstanding.

Approved April 1, 1859.

Chap. 146 AN ACT IN ADDITION TO AN ACT CONCERNING INSURANCE COMPANIES.

Be it enacted, &c., as follows:

Act of 1856 amended as to form of return. The questions in schedule D, chapter two hundred and fifty-two of the acts of the year one thousand eight hundred and fifty-six, from five to nine, inclusive, are hereby stricken out, and the following is inserted after the question numbered nineteen, to wit:

State in the blanks herewith enclosed, the distinctive number, date and amount of each outstanding policy, not

heretofore returned, and the age of the party or parties insured thereby at the said date. Also state, by number, date, amount and age of the insured, what policies, whether heretofore returned, or issued during the year, have within the year ceased to be in force, specifying whether they have terminated by death, surrender or forfeiture from non-payment of premium, and what, if any thing, has been paid in each case to the legal holder of the policy.

Approved April 1, 1859.

AN ACT TO AUTHORIZE THE FILLING UP FLATS, AND BUILDING A SEA WALL NEAR THE MASSACHUSETTS GENERAL HOSPITAL.

Chap. 147

Be it enacted, &c., as follows:

The Massachusetts General Hospital, and Eliza A. Parkman, Harriette E. Parkman and George F. Parkman, executors of, and devisees under the will of the late George Parkman, deceased, and Joseph Noble and John B. Kettell, trustees, are hereby severally authorized to build and maintain a sea wall upon their flats lying west of North Charles Street in the city of Boston, not to extend said sea wall beyond the "commissioners' line," so called, as now established by law, and to fill up and make solid their several parcels of flats lying between their several parcels of upland and the said "commissioners' line," and to lay vessels along said wall so authorized to be built as aforesaid, and to take dockage and wharfage therefor: *provided, however*, that the grantees above named shall first pay to the treasurer of the Commonwealth such sums of money as the governor and council shall determine, as payment for any flats and rights in tide water belonging to the Commonwealth, if any, taken or filled up under the provisions of this act.

Certain parties authorized to build sea-wall, &c.

Proviso.

Approved April 1, 1859.

AN ACT ESTABLISHING THE COMPENSATION OF BANK COMMISSIONERS.

Chap. 148

Be it enacted, &c., as follows:

SECTION 1. Each bank commissioner shall receive a salary of two thousand dollars per annum, and also his travelling expenses while in the performance of the duties of his office, to be paid in equal quarterly payments, from and after the first day of January of the current year.

Salary.

SECTION 2. So much of the ninth section of chapter one hundred and twenty-seven of the statutes of the year one thousand eight hundred and fifty-one, as is inconsistent with this act, is hereby repealed.

Repeal.

SECTION 3. This act shall take effect from and after its passage.

Approved April 1, 1859.

Chap. 149 AN ACT TO ALTER THE BOUNDARY LINE BETWEEN THE TOWNS OF
HOLLISTON AND MILFORD.

Be it enacted, &c., as follows:

Boundary line
established.

The dividing line between the towns of Milford and Holliston shall be altered, and shall hereafter be established, as follows, to wit: beginning at a point on the line between the towns of Holliston and Hopkinton, sixty-four rods easterly from the north-west corner bound of Holliston, and running southerly, until it comes to a point on the line between the towns of Holliston and Milford, one hundred and thirty-two rods and fifteen links easterly from the south-west corner bound of Holliston; and that part of Holliston which lies west of the above described line shall hereafter be annexed to and belong to the town of Milford: *provided*, that this act shall not affect the present apportionment of senators or representatives to the general court, or of any other state or United States officers; but all persons upon said annexed territory shall continue to vote as now provided by law, until a new apportionment shall be made.

Not to effect ap-
portionment of
representatives,
&c.

Approved April 1, 1859.

Chap. 150 AN ACT TO SET OFF CERTAIN PERSONS, WITH THEIR POLLS AND
ESTATES, FROM THE DISTRICT OF MARSHPEE TO THE TOWN OF
SANDWICH.

Be it enacted, &c., as follows:

Names of persons
set off.

SECTION 1. Ellis Howland, Thomas T. Howland, Solomon C. Howland, Thomas Goodspeed, Henry W. Goodspeed, Luther Goodspeed, Oliver Harlow, Andrew Harlow, Thomas C. Harlow, Edwin M. Jones, Ezra S. Jones and Ebenezer C. Jones, within the limits of the district of Marshpee, in the county of Barnstable, with their polls and estates lying within said district, and including that tract of land lying between the estates of the above named Thomas Goodspeed and Ezra S. Jones, known as a part of the Bourne Purchase, owned by persons not proprietors of, nor resident within, said district, are hereby set off from the district of Marshpee aforesaid, and annexed to the town of Sandwich, in said county of Barnstable; and the said Ellis Howland, Thomas T. Howland, Solomon C. Howland, Thomas Goodspeed, Henry W. Goodspeed, Luther Goodspeed, Oliver Harlow, Andrew Harlow, Thomas C. Harlow, Edwin M. Jones, Ezra S. Jones and Ebenezer C. Jones, shall be entitled, from and after the passage of this act, to all the rights and privileges of inhabitants of the town of Sandwich aforesaid; reserving, nevertheless, to the said district of Marshpee, all rights and privileges in Wakeby and Marshpee Ponds, and to the regulation and control of the fisheries therein.

Rights and privi-
leges of Marshpee
in certain ponds
reserved.

SECTION 2. This act shall take effect from and after its passage.

Approved April 1, 1859.

AN ACT TO INCORPORATE THE GROTON JUNCTION HOTEL COMPANY.

Chap. 151

Be it enacted, &c., as follows :

SECTION 1. Abel Prescott, Harvey A. Woods, Levi W. Woods, Stephen Roberts and Levi W. Phelps, their associates and successors, are hereby made a corporation by the name of the Groton Junction Hotel Company, for the purpose of erecting a hotel in the town of Groton, at Groton Junction, so called, and maintaining such public house, and the buildings and improvements connected therewith ; and for these purposes shall have all the powers and privileges, and be subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes: *provided*, that said corporation shall not carry on the business of hotel-keeping, or be in any way interested in such business.

Corporators.

Name.

Purpose.

Location.

Privileges, restrictions, &c.

Proviso.

SECTION 2. The whole amount of real and personal estate or capital stock which said corporation may hold for the purposes aforesaid, shall not exceed fifteen thousand dollars.

Real and personal estate \$15,000.

SECTION 3. This act shall take effect from and after its passage.

Approved April 1, 1859.

AN ACT TO INCORPORATE THE ROLLSTONE INSURANCE COMPANY.

Chap. 152

Be it enacted, &c., as follows :

SECTION 1. Alvah Crocker, Moses Wood, Otis Daniell, their associates and successors, are hereby made a corporation by the name of the Rollstone Insurance Company, in the town of Fitchburg, for the purpose of making insurance against losses by fire ; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth, or which may be hereafter set forth, in the general laws of this Commonwealth, relating to fire insurance companies with specific capital.

Corporators.

Name.

Location.

Purpose.

Privileges, restrictions, &c.

SECTION 2. The capital stock of said company shall be one hundred thousand dollars, with the privilege of increasing the same to two hundred thousand dollars, by the vote of a majority of the stockholders, at any legal meeting called for that purpose, and shall be divided into shares of one hundred dollars each, and shall be collected and paid in in such instalments as the president and directors of said company shall order and appoint.

Capital not to exceed \$200,000.

Shares \$100.

SECTION 3. Said corporation may commence business when fifty thousand dollars are paid in ; and may hold real estate for its own use, not exceeding five thousand dollars.

Real estate \$5,000.

SECTION 4. This act shall take effect from and after its passage.

Approved April 1, 1859.

Chap. 153

AN ACT TO INCORPORATE THE NORTHAMPTON FIRE INSURANCE COMPANY.

Be it enacted, &c., as follows :

Corporators.

Name.

Location.

Purpose.

Privileges, restrictions, &c.

Capital not to exceed \$100,000.
Shares \$100.

Real and personal estate, \$10,000.

SECTION 1. Benjamin Barrett, William Clark, Silas M. Smith, Luther I. Washburn, Haynes K. Starkweather, Jr., their associates, successors and assigns, are hereby made a corporation by the name of the Northampton Fire Insurance Company, to be established in the town of Northampton and county of Hampshire, for the purpose of making insurance against losses by fire; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in any and all statutes or general laws of this Commonwealth which are now or may hereafter be in force relative to insurance companies.

SECTION 2. The said corporation shall have a capital stock of fifty thousand dollars, divided into shares of one hundred dollars each, with liberty to pay in and increase the same to an amount not exceeding one hundred thousand dollars, and to hold real and personal estate for its use, not exceeding ten thousand dollars.

Approved April 1, 1859.

Chap. 154

AN ACT TO INCREASE THE SCHOOL FUND AND TO GRANT AID TO THE MUSEUM OF COMPARATIVE ZOOLOGY, TUFTS, WILLIAMS AND AMHERST COLLEGES, AND THE WESLEYAN ACADEMY AT WILBRAHAM, OUT OF THE PROCEEDS OF THE SALES OF BACK BAY LANDS.

Be it enacted, &c., as follows :

Moiety of "Bay Lands Fund," how appropriated and invested.

Redemption of certain scrip.

SECTION 1. The avails of the sales of lands belonging to the Commonwealth in the Back Bay, shall be paid into the treasury, to be held, invested and applied in accordance with the provisions of the resolves of the year one thousand eight hundred and fifty-seven, chapter seventy; and the moiety of such avails, which, by the provisions of said chapter, inures immediately to the use of the Commonwealth, and which by the ninety-sixth chapter of the statutes of the year one thousand eight hundred and fifty-eight, is styled the "Bay Lands Fund," shall be held, invested and appropriated, as follows, that is to say:

I. The whole of such moiety, until the sum of three hundred thousand dollars shall have been so disposed of, shall be employed for the redemption of the scrip of the Commonwealth issued in the year one thousand eight hundred and fifty-six, in accordance with the provisions of the third section of chapter two hundred and thirty-five of the acts of that year.

II. After such sum of three hundred thousand dollars shall have been received into the treasury, one-half of the avails of the sales of such moiety, shall, as fast as received, be added to the Massachusetts School Fund, for the purpose of increasing the principal sum thereof.

Increase of school fund.

III. The remaining avails of such moiety, shall, after being received into the treasury, be distributed upon the first day of August in each year, among the institutions hereinafter named, in the proportions following, that is to say:

Remainder of moiety, how distributed.

1. Twenty per centum of the avails of such moiety shall be paid to such persons as may at the present session of the legislature, be incorporated as the "Trustees of the Museum of Comparative Zoology," such payments not to exceed, in the aggregate, the sum of one hundred thousand dollars.

Museum of Comparative Zoology.

2. Twelve per centum of the avails of such moiety shall be paid to the treasurer of the trustees of Tufts College, upon the order of the trustees; such payments not to exceed, in the aggregate, the sum of fifty thousand dollars.

Tufts College.

3. Six per centum of the avails of such moiety shall be paid to the treasurer of the corporation of Williams College, upon the order of said corporation; such payments not to exceed, in the aggregate, the sum of twenty-five thousand dollars.

Williams College.

4. Six per centum of the avails of such moiety shall be paid to the treasurer of the corporation of Amherst College, upon the order of the corporation; such payments not to exceed, in the aggregate, the sum of twenty-five thousand dollars.

Amherst College.

5. Six per centum of the avails of such moiety shall be paid to the treasurer of the corporation of the Wesleyan Academy, in Wilbraham, upon the order of the corporation; such payments not to exceed, in the aggregate, the sum of twenty-five thousand dollars.

Wesleyan Academy.

SECTION 2. No payment as aforesaid, shall be made to either of the before named institutions, unless, before the time for each payment, it shall be made to appear to the satisfaction of the governor and council, that there has been secured by subscription in aid of such institution, in cash, or bonds of unquestionable security, an amount equal to the amount then to be paid to such institution, according to the terms of this act, nor to either of the institutions hereinafter named, unless there shall have been established in such institutions, the number of free scholarships set against their respective names, that is to say:

Subscriptions to be secured, and free scholarships established, before payment of appropriations.

In Williams College, three free scholarships.

In Tufts College, three free scholarships.

In Amherst College, three free scholarships.

Free scholarships, how controlled.

The aforesaid free scholarships shall be under the control of the board of education, and may be filled and managed in such mode as now is, or may hereafter be provided by law, for the regulation of all free scholarships established by the Commonwealth.

School fund: provision for further increase.

SECTION 3. All the avails of the moiety of the sales of the public lands, which, by the provisions of the seventieth chapter of the resolves of the year one thousand eight hundred and fifty-seven, inure immediately to the use of the Commonwealth, and the distribution of which is not otherwise provided for in this act, shall be added to the principal of the Massachusetts School Fund.

Fund for support of certain roads and bridges.

SECTION 4. The sum of one hundred thousand dollars shall be reserved, by the commissioners of the Back Bay, out of the moiety of the avails of the sales of lands, which, by the resolves of the year one thousand eight hundred and fifty-seven, chapter seventy, may be drawn upon for the purposes of improvement, as set forth in said chapter; and the same shall be invested as a fund, the income whereof shall be appropriated to the support of the roads and bridges, which the Commonwealth has become bound to support by its contracts in regard to said Back Bay: and if, before the first payment shall be made to any institution of learning agreeably to this act, it shall be made to appear, to the satisfaction of the governor and council, that such amount cannot be spared from the moiety of the avails of such lands, subject to be drawn upon in favor of said commissioners, then the same may be reserved out of the other moiety of the avails of the sales of said lands, after payment of the sum of three hundred thousand dollars, as provided for in section first.

SECTION 5. This act shall take effect from and after its passage.

Approved April 2, 1859.

Chap. 155 AN ACT RELATING TO THE REPORTS OF THE WARDEN AND INSPECTORS OF THE STATE PRISON.

Be it enacted, &c., as follows:

Contractors, officers, &c.

In the yearly reports made by the warden and inspectors of the state prison to the legislature, there shall be given the name of the contractors in said prison, the business in which he is engaged, the number of convicts he employs, the price paid them per day, the yearly amount of their earnings, together with a list of the officers in said prison, with their individual salaries, number of volumes in the

library, and the cost of each addition to, or changes made in the prison buildings during the year.

Approved April 2, 1859.

AN ACT TO ESTABLISH AS A HIGHWAY A PART OF THE TURNPIKE ROAD FROM CAMBRIDGE TO WATERTOWN. *Chap. 156*

Be it enacted, &c., as follows :

SECTION 1. The supreme judicial court, sitting for the counties of Middlesex or Suffolk, or any justice thereof, in vacation, are hereby authorized and empowered to appoint three suitable commissioners, not inhabitants of said county of Middlesex, whose duty it shall be, on the petition of any person or persons interested, to lay out and establish as a highway, so much of the turnpike road from Cambridge to Watertown, authorized by an act passed June twelfth, eighteen hundred and twenty-four, entitled "An Act to authorize the Proprietors of West Boston Bridge to establish a Turnpike Road from Cambridge to Watertown," and crossing Charles River by two bridges, the one between Cambridge and Brighton, and the other between Brighton and Watertown, as lies within the limits of the said towns of Brighton and Watertown.

Supreme judicial court may appoint commissioners to establish highway.

SECTION 2. The said commissioners are hereby further authorized and empowered to make such orders, directions and provisions, as to them shall seem expedient, for the rebuilding, repairing and future maintaining, of so much of said road, and of the said bridge between Cambridge and Brighton, and of the said bridge between Brighton and Watertown, as lies within the limits of the said town of Brighton, and for the raising, lowering, tending, rebuilding and repairing of so much of the draws in said bridges, as lies within the limits of said town of Brighton, and may order and direct that the expenses of all such rebuilding, repairing and future maintaining of said road and bridges, and of raising, lowering, tending, rebuilding and repairing said draws, shall be defrayed by the said county of Middlesex, or by the said town of Brighton, or jointly, in any proportion, by the said county and town, as to the said commissioners shall seem expedient and just, taking into view the uses now made of the said road and bridges, and the condition thereof.

Powers and duties of commissioners with respect to certain roads and bridges within the limits of Brighton.

SECTION 3. The said commissioners are hereby further authorized and empowered to make such orders, directions and provisions, as to them shall seem expedient, for the rebuilding, repairing and future maintaining, of so much of said road and of the said bridge between Brighton and

With respect to certain roads and bridges within the limits of Watertown.

Watertown, as lies within the limits of the said town of Watertown, and for the raising, lowering, tending, rebuilding and repairing, of so much of the draw in said bridge as lies within the limits of said town of Watertown, and may order and direct that the expenses of all such rebuilding, repairing and future maintaining, of said road and bridge, and of raising, lowering, tending, rebuilding and repairing of said draw, shall be defrayed by the said county of Middlesex, or by the said town of Watertown, or jointly, in any proportion, by the said county and town, as to the said commissioners shall seem expedient and just, taking into view the uses now made of the said road and bridges and the condition thereof.

Commissioners to make report.

SECTION 4. The said commissioners shall make their report to the clerk of the county commissioners for the county of Middlesex, whose duty it shall be to record the same, as a final adjudication of all questions and claims, arising under the provisions of this act, between the county of Middlesex and the said towns of Watertown and Brighton, respectively; and thereupon the said county commissioners shall carry into effect the said adjudication, as if it were an original adjudication made by themselves.

To give notice of any hearing under this act.

SECTION 5. The said commissioners shall cause reasonable notice to be given to the county of Middlesex, and to the towns of Watertown and Brighton, of any hearing under this act; and such notice shall be given to the chairman of the board of selectmen of the said towns, and to the chairman of the county commissioners of said county, who is hereby authorized to appear and represent the said county at such hearing.

Supreme judicial court to give notice of the pending of any petition for appointment of commissioners.

The supreme judicial court, before the appointment of such commissioners, shall cause reasonable notice to be given to the towns of Watertown and Brighton, and to the said county commissioners, of the pending of any petition for the appointment of commissioners under this act; and such commissioners, when appointed, shall be sworn before a judge of the supreme court, to the faithful and impartial discharge of their duties, under this act. The expenses of executing this act, including the fees of the said commissioners, to be taxed by them, shall be paid by the towns of Watertown and Brighton, and the county of Middlesex, in such proportions as the said commissioners may order and direct.

Expenses, how defrayed.

SECTION 6. This act shall take effect from and after its passage.

Approved April 4, 1859.

AN ACT RELATING TO POLL TAXES.

Chap. 157

Be it enacted, &c., as follows :

SECTION 1. The twenty-seventh section of the seventh chapter of the Revised Statutes, is so far amended as to provide that the assessors shall assess upon the polls, as nearly as the same can be conveniently done, one-sixth part of the whole sum to be assessed: *provided*, the whole poll tax assessed in any one year upon any one individual, for town, county and state purposes, except highway taxes separately assessed, shall not exceed one dollar and fifty cents.

Poll taxes to constitute one-sixth part of whole sum assessed.

Proviso.

SECTION 2. This act shall take effect upon its passage.

Approved April 4, 1859.

AN ACT RELATING TO EXHIBITIONS OF THE FIGHTING OF BIRDS AND ANIMALS.

Chap. 158

Be it enacted, &c., as follows :

SECTION 1. Any person establishing or promoting an exhibition of the fighting of birds or animals, shall be punished by fine not exceeding one hundred dollars, or by imprisonment in the house of correction not exceeding six months.

Penalty for establishing exhibition.

SECTION 2. Any person present at, or aiding in, or contributing to, such an exhibition, shall be punished by fine not exceeding ten dollars.

Liability for attending.

Approved April 4, 1859.

AN ACT TO AUTHORIZE THE TREASURER AND RECEIVER-GENERAL OF THE COMMONWEALTH TO RECEIVE FROM THE SECRETARY OF THE TREASURY OF THE UNITED STATES, CERTAIN MONEYS DUE OR TO BECOME DUE FROM THE UNITED STATES TO THIS COMMONWEALTH, OR SECURITIES ISSUED OR TO BE ISSUED TO THIS COMMONWEALTH, IN LIEU OF THE PAYMENT THEREOF.

Chap. 159

Be it enacted, &c., as follows :

SECTION 1. The treasurer and receiver-general of this Commonwealth is hereby authorized, empowered and directed to receive and accept for and on behalf of this Commonwealth, from the secretary of the treasury of the United States, the sum of two hundred and twenty-seven thousand one hundred and seventy-six dollars and forty-eight cents, being the moneys authorized to be paid to this Commonwealth, by an act of the congress of the United States, approved by the president on the third day of March, in the year one thousand eight hundred and fifty-nine, or to receive and accept, as aforesaid, such United States' stock as may, in lieu of said moneys, be issued to this Commonwealth in accordance with the provisions of said act of congress; and said treasurer and receiver-general is hereby further author-

Treasurer authorized to receive money or United States stocks in lieu thereof, under act of congress of March 3, 1859.

ized and directed to receive and accept, as aforesaid, for and on behalf of this Commonwealth, all other sums of money that may at any time hereafter be authorized to be paid to this Commonwealth, out of the treasury of the United States, on account of the claims of this Commonwealth against the United States, for disbursements, services and so forth, during the late war between the United States and the United Kingdom of Great Britain and Ireland, or on account of interest on any such sums or claims, or to receive and accept any United States' stock that may be authorized to be issued to this Commonwealth in lieu of such moneys or interest; and for all moneys or stock so received as aforesaid, the said treasurer and receiver-general is hereby authorized, empowered and directed, to give an accountable receipt under the seal of the Commonwealth.

SECTION 2. This act shall take effect from and after its passage.

Approved April 4, 1859.

AN ACT RELATING TO PROOF IN CRIMINAL CASES.

Chap. 160

Be it enacted, &c., as follows:

Written license,
&c., to be proved.

In all criminal prosecutions, in which the defendant shall rely for his justification upon any written license, appointment or certificate of authority, he shall prove the same; and until such proof, the presumption shall be that he is not so authorized.

Approved April 4, 1859.

AN ACT RELATING TO THE PROBATE COURT IN THE COUNTY OF NANTUCKET.

Chap. 161

Be it enacted, &c., as follows:

When to be held.

SECTION 1. The probate court for the county of Nantucket, shall be hereafter holden on the first Tuesday of every month.

Processes now
pending.

SECTION 2. All processes and matters which are now pending in the probate court in said county of Nantucket, may be returned to, and acted upon, on the days specified in the first section of this act.

Approved April 4, 1859.

AN ACT RELATING TO THE REMOVAL OF ACTIONS.

Chap. 162

Be it enacted, &c., as follows:

If party applying
for removal neglect
to enter the same.
Other party.

If any party making application for the removal of an action or petition from the court of common pleas, to the supreme judicial court, shall neglect duly to enter the same therein, it may be entered by the other party at the term of said court next after said application was granted; and a nonsuit or default shall thereupon be entered in the case against the party who neglected to make the entry, subject to have such nonsuit or default taken off upon good cause shown, as in other cases.

Approved April 4, 1859.

AN ACT FIXING THE SALARIES OF COUNTY COMMISSIONERS.

Chap. 163

Be it enacted &c., as follows:

SECTION 1. Instead of the compensation now allowed them by law, the county commissioners and special commissioners of each county in the Commonwealth, shall receive out of the treasury of each county, a fixed annual salary, which shall be in full payment for all services rendered, and travel performed by them in discharge of their duties in their respective counties.

Annual salaries established.

SECTION 2. Said salary shall be paid semi-annually, in January and July, and shall be divided among said commissioners in proportion to the number of days' service and amount of travel actually performed by them respectively.

When paid, and how divided.

SECTION 3. Until otherwise provided by law, the commissioners of the several counties shall receive the following salaries, namely:

County commissioners of

The commissioners of the county of Barnstable, eight hundred dollars:

Barnstable.

The commissioners of the county of Berkshire, twelve hundred dollars:

Berkshire.

The commissioners of the county of Bristol, eleven hundred dollars:

Bristol.

The commissioners of the county of Dukes county, two hundred dollars:

Dukes County.

The commissioners of the county of Essex, twenty-five hundred dollars:

Essex.

The commissioners of the county of Franklin, nine hundred dollars:

Franklin.

The commissioners of the county of Hampden, fourteen hundred dollars:

Hampden.

The commissioners of the county of Hampshire, nine hundred dollars:

Hampshire.

The commissioners of the county of Middlesex, three thousand dollars:

Middlesex.

The commissioners of the county of Norfolk, eighteen hundred dollars:

Norfolk.

The commissioners of the county of Plymouth, fifteen hundred dollars:

Plymouth.

The commissioners of the county of Worcester, twenty-two hundred dollars.

Worcester.

SECTION 4. In all cases where a petition to the county commissioners shall be disallowed, and costs are, by existing laws, chargeable to the petitioner, the same shall be taken at the rate of three dollars per day for each commissioner, and travel at the rate of ten cents per mile to and from the place of meeting, to be paid into the county treasury.

Costs to petitioners.

Repeal. SECTION 5. The thirty-ninth section of the fourteenth chapter of the Revised Statutes, is hereby repealed.

SECTION 6. This act shall take effect from and after the first day of July next.

Approved April 4, 1859.

Chap. 164 AN ACT TO ESTABLISH THE SALARY OF THE CLERK IN THE OFFICE OF THE ADJUTANT AND QUARTERMASTER-GENERAL OF THE COMMONWEALTH.

Salary estab-lished. *Be it enacted, &c., as follows:*

From and after the first day of January, in the year one thousand eight hundred and fifty-nine, the clerk in the office of the adjutant and quartermaster-general of the Commonwealth, shall receive a salary of twelve hundred dollars a year, to be paid quarterly; which sum shall be in full for all services rendered by said clerk in said office.

Approved April 4, 1859.

Chap. 165 AN ACT TO REGULATE SIDEWALKS IN THE CITY OF CHARLESTOWN.

Be it enacted, &c., as follows:

Owners to lay sidewalks in front of their lots adjoining any street ordered to be paved, &c.

SECTION 1. Whenever any public street in the city of Charlestown, or any portion of any public street in said city, shall have been or shall be ordered by the city council, or surveyors of highways of said city, to be paved, or macadamized, or covered with gravel as a substitute for pavement, each and every owner or owners, of a lot or lots, adjoining any such street or portion of a street, shall, without delay, at his or her own expense, cause the sidewalk in front of his or her land, to be paved with brick or flat stone, and supported by hammered edgestone, and kept in repair; the same to be done under the direction and to the acceptance of the surveyors of the highways: and if the owner or owners of such lot or lots, shall neglect or refuse to pave and support the sidewalks as aforesaid, for the space of twenty days after he or she, or the tenant of such lot or lots, or the attorney of such owner or owners, shall have been thereto required by any of the surveyors of highways, then it shall be lawful for said surveyors, and they are hereby enjoined and required, to pave and support the same in manner aforesaid, or to repair the same, and shall recover the whole amount of the expense thereof, by action of contract, to be brought by the surveyors of highways, in the name and behalf of said city, before any court proper to try the same: *provided, nevertheless*, that whenever, in the opinion of the mayor and aldermen, any owner or owners, of any lot on such street, shall be unable to comply with the foregoing requisitions, the said mayor and aldermen may direct the surveyors of highways, or the superintendent of

Upon neglect, surveyors of highways to lay sidewalks and recover expense.

Proviso.

streets, to cause such sidewalks to be made at the expense of said city ; and *provided, also*, that when there are any vacant lots of land on any such street, the surveyors of highways may, at their discretion, allow the owner or owners thereof to cover the sidewalk with plank, and support the same with timber, which shall be removed, and the edgestone and brick, or flat stone pavement be completed, whenever, in the judgment of said surveyors, it shall become necessary.

SECTION 2. The first section of the act passed on February seventh, in the year eighteen hundred and fifty-five, entitled "An Act in addition to An Act to regulate Sidewalks in the City of Charlestown," is hereby repealed ; but nothing herein contained shall affect any rights now accrued, nor any action now pending.

Approved April 4, 1859.

AN ACT RELATING TO THE COLLECTION OF MONEY FRAUDULENTLY WITHHELD BY ATTORNEYS AT LAW. *Chap. 166*

Be it enacted, &c., as follows :

SECTION 1. If any attorney at law shall unreasonably neglect to pay any money collected by him for and in behalf of any client, when demanded by the client, he shall forfeit and pay to such client five times the lawful interest of the money, from the time of the demand until it is paid.

SECTION 2. The third section of an act entitled "An Act to amend and consolidate the several Acts concerning Imprisonment for Debt and the Punishment of Fraudulent Debtors," passed in the year eighteen hundred and fifty-seven, is hereby amended by adding a sixth provision thereto, as follows :

Sixth—That the debtor is an attorney at law ; that the debt in the execution is for money collected by the debtor for the creditor therein, and that said attorney has unreasonably neglected to pay the same.

SECTION 3. The seventeenth section of said act is hereby amended, by adding a fourth provision thereto, as follows :

Or Fourth—That the debtor is an attorney at law ; that the debt sought to be recovered is for money collected by the debtor for the plaintiff, and that the debtor has unreasonably neglected to pay the same to the plaintiff.

SECTION 4. Any attorney at law, arrested under the provisions of this act, may be discharged by taking the oath for the relief of poor debtors, as prescribed in said act of eighteen hundred and fifty-seven ; or by giving bonds, with sufficient sureties, to the satisfaction of the magistrate before whom he is taken upon arrest, for the payment of such sum as may be found due in the action, together with all costs ;

and he shall be discharged from arrest or imprisonment in no other manner, except by order of the plaintiff in the writ, or creditor in the execution.

Act of 1857, how far to remain in force.

SECTION 5. Said act of eighteen hundred and fifty-seven shall be in force in relation to arrests authorized by this act, so far as the same is applicable thereto and not inconsistent herewith.

Approved April 4, 1859.

Chap. 167 AN ACT IN ADDITION TO AN ACT TO ESTABLISH A POLICE COURT IN THE TOWN OF CHICOPEE.

Be it enacted, &c., as follows :

Salary of justices.

SECTION 1. The justice of the police court in the town of Chicopee, shall be allowed to retain to his own use, for his services in criminal prosecutions, from the fees received by him for such services, a sum not exceeding eight hundred dollars in any one year, out of which he shall pay the special justice, quarterly, for all services by him performed in criminal cases, at the rate of three dollars a day, for each day that he is actually engaged in holding court.

Repeal.

SECTION 2. The first section of the thirteenth chapter of the acts of eighteen hundred and fifty-six, is hereby repealed.

Approved April 4, 1859.

Chap. 168 AN ACT AMENDING THE CHARTER OF THE CITY OF FALL RIVER.

Be it enacted, &c., as follows :

School committee. Number and term of office.

SECTION 1. At the next annual election in the city of Fall River, shall be elected by ballot, a school committee for said city, consisting of six members, one third for the term of one year, one third for the term of two years, and one third for the term of three years.

Elections of.

SECTION 2. The ballots for said school committee shall designate the term of years during which each person voted for, shall serve, and the election shall be conducted in all respects as is now provided for the election of mayor of said city.

Act of 1857 to apply in future elections.

SECTION 3. After such election shall have been held, the provisions of the two hundred and seventieth chapter of the acts of the year eighteen hundred and fifty-seven, shall apply to all future elections of school committees in said city.

Official year.

SECTION 4. The official year of said school committee shall commence on the first day of April in each year.

Act to be submitted to voters of Fall River.

SECTION 5. This act shall not take effect until accepted by the voters of said city, at a meeting duly held for said purpose.

Approved April 5, 1859.

AN ACT TO INCREASE THE CAPITAL STOCK OF THE NORTH BANK.

Chap. 169

Be it enacted, &c., as follows :

The president, directors and company of the North Bank, in Boston, are hereby authorized to increase their capital stock, by an addition thereto not exceeding two hundred and fifty thousand dollars : *provided*, that such increase shall be subject to the provisions, duties, restrictions, liabilities and privileges, set forth in the act passed May twenty-fourth, of the year eighteen hundred and fifty-one, entitled " An Act in addition to an Act entitled An Act to authorize the Business of Banking ;" and *provided, also*, that no part of the additional capital aforesaid shall be exempted from taxation, until the whole circulation of said bank shall exceed the amount already allowed by law.

Increase of capital authorized.

Subject to provisions of act of 1851.

Proviso.

Approved April, 5, 1859.

AN ACT CONCERNING THE STATE REFORM SCHOOL FOR BOYS.

Chap. 170

Be it enacted, &c., as follows :

SECTION 1. Whenever any boy shall be sentenced to the state reform school, the city or town wherein such boy has his lawful settlement, shall be held to pay to the treasurer of the school the sum of fifty cents per week, towards the support of such boy during the time he remains at the school, upon notice given and request made by the said treasurer. And any sum so paid by any city or town may be recovered by such city or town of any parent, kindred or guardian, liable by law to maintain such boy.

Support of boys sentenced.

SECTION 2. All boys sentenced to the state reform school, may be sentenced thereto during their minority.

Duration of sentence.

SECTION 3. Whenever any boy shall be sentenced to the state reform school, the magistrate sentencing him shall transmit to the superintendent of the school, by the officer serving the warrant, a statement of the substance of the complaint and testimony given in the case, together with such other particulars concerning the boy so sentenced, as such magistrate may be able to ascertain.

Superintendent of school to receive statement of the complaint and testimony.

SECTION 4. So much of the one hundred and fiftieth chapter of the acts of eighteen hundred and fifty-six, as relates to the state reform school, is hereby repealed.

Repeal.

SECTION 5. This act shall take effect from and after its passage.

Approved April 5, 1859.

AN ACT CONCERNING COLLECTORS OF TAXES.

Chap. 171

Be it enacted, &c., as follows :

The provisions of the fifteenth section of the eighth chapter of the Revised Statutes, authorizing suits by collectors of taxes, are hereby extended to all cases in which taxes com-

Chap. 8, sect. 15, Rev. Stats. extended.

mitted to a collector have remained unpaid for one year after such commitment.

Approved April 5, 1859.

Chap. 172 AN ACT IN ADDITION TO THE ACTS IN RELATION TO LAW LIBRARY ASSOCIATIONS.

Be it enacted, &c., as follows :

County treasurers to pay to law library associations certain moneys.

SECTION 1. The several county treasurers shall, on the first day of January in every year, pay to the treasurers of the county law library associations now existing, or that may hereafter be duly organized in their respective counties, one-quarter part of all the sums which said treasurers may have respectively received from the clerks of the courts during the preceding year; provided such quarter part in any year does not exceed the sum of one thousand dollars: and if said quarter should exceed one thousand dollars, then said treasurers shall pay one thousand dollars; and all sums so paid to the treasurers of law library associations, shall be applied to maintain and enlarge the public law libraries for the use of the courts and citizens in the several counties.

County commissioners may authorize other payments under chap. 71, 1856.

SECTION 2. Nothing in this act contained, shall be construed to prevent county commissioners from authorizing other payments from the county treasuries, under the seventy-first chapter of the acts of the year eighteen hundred and fifty-six.

Approved April 5, 1859.

Chap. 173 AN ACT TO INCORPORATE THE PAWNERS' BANK.

Be it enacted, &c., as follows :

Corporators.

SECTION 1. Charles F. Barnard, Jacob Sleeper, Frederic W. Sawyer, Nathaniel C. Nash, their associates and successors, are hereby incorporated under the name of the Pawners' Bank, to be located in the city of Boston: with the powers and privileges, and to be governed by the rules and provisions established by law relative to banks in this Commonwealth, so far as applicable to the objects of this institution. It shall not be a bank of issue, and shall loan on pledge of goods and chattels only.

Name.

Powers and privileges.

Loans, on what security.

Capital stock.

May borrow on its own notes.

SECTION 2. The capital of said bank, to be raised by subscription, shall not exceed three hundred thousand dollars, in shares of one hundred dollars each. It shall have the power of borrowing on its own notes, not exceeding the amount of its capital paid in, and for periods not exceeding one year.

When stockholders may organize.

SECTION 3. When fifty thousand dollars have been duly subscribed, and twenty-five thousand dollars thereof actually paid in, the stockholders may organize and proceed to business under this charter.

SECTION 4. The charge on all loans, to cover expenses of every kind, including interest, shall be uniform, and not exceed one and a half per cent. per month. Charge on loans.

SECTION 5. When the bank has disposable funds, it shall loan on all goods and chattels offered, embraced within its rules and regulations, in the order in which they are offered, with this exception, that the bank may always discriminate in favor of small loans to the indigent. It shall loan to four-fifths of the appraised value on gold and silver plate and ware, and to two-thirds of such value on all other goods and chattels as aforesaid. Shall loan on goods and chattels, and discriminate in favor of the indigent.
Proportion of loans to value of goods.

SECTION 6. The government of the bank shall be in seven directors, five of whom shall be chosen annually, in October, by the stockholders, together with one to be appointed by the governor of the Commonwealth, and one to be appointed by the mayor of the city of Boston; and the board thus created shall elect one of their number president, and such other officers as may be deemed necessary. Government of bank.

SECTION 7. All loans shall be on a time fixed, and not over one year; and the pawner shall have a right to redeem his property pledged, at any time within the specified period, on payment of the loan and rate of compensation to time of offer to redeem. Duration of loans, and right of redemption.

SECTION 8. If the property pledged is not redeemed within the time limited, the same shall be sold at public auction; and the net surplus, after paying loan, charges and expenses of all kinds, shall be held one year for the owner — *annual surplus* if not then called for, the same shall go into a fund for the year, when the entire forfeiture takes place, called the "profit and loss fund." Unredeemed property.
Profit and loss fund.

SECTION 9. All losses on loans, from failure of title or other cause, shall be satisfied from the said profit and loss fund. Losses on loans.

SECTION 10. The net balance of said fund, at the end of each year, shall be made up annually to the first day of January, and be doled in fuel to the needy, under the direction of the board, during the months of January, February and March. Balance of fund, how disposed of.

SECTION 11. The bank shall give to each pawner a card, inscribed with the name of the bank, the article or articles pawned, the name of the pawner, the amount of the loan, the rate of compensation, the date when made, the date when payable, and the page of the book where recorded. Pawner to receive certificate, &c.

SECTION 12. The whole sum earned each year, shall be duly disposed of at the end of the year. The earnings to be divided among the stockholders shall never exceed eight per Profits of bank, how disposed of.

cent. per annum, and the balance, if any, shall go into said profit and loss fund, and be distributed in charity, as herein before provided.

Annual return.

SECTION 13. The president and directors of said bank shall annually report to the bank commissioners, full and accurate statistics of the operations and condition of said bank, in the month of October in each year.

By-laws, rules and regulations.

SECTION 14. The stockholders of said bank may establish such by-laws, rules and regulations, for conducting the business of said bank, as they may deem necessary, not inconsistent with the laws of the Commonwealth.

Transfer of stock.

SECTION 15. The stock of said bank shall be transferable only at said bank and on its books. *Approved April 5, 1859.*

Chap. 174

AN ACT REGULATING THE MANUFACTURE AND SALE OF BREAD.

Be it enacted, &c., as follows:

Loaves required to be of certain weight.

SECTION 1. A loaf of bread shall be two pounds in weight; and bread may be baked and sold in loaves, half, three-quarter and quarter loaves, but not otherwise, except in bread composed in chief part of rye or maize.

Except small and fancy bread.

SECTION 2. Small rolls and fancy bread weighing less than one-quarter of a pound each, may be baked and sold without regard to weight.

Retail dealers to exhibit a printed card of kinds and prices

SECTION 3. In every shop or place where bread is sold by retail, and in each front window thereof there shall be conspicuously placed a card on which shall be legibly printed a list of the different kinds and qualities of loaves sold there, with the price of each per loaf, and half, three-quarter and quarter loaf.

Bread shall be weighed in presence of buyer.

SECTION 4. All bread, except small rolls and fancy bread of less than a quarter of a pound each, sold in any shop or place, shall be weighed in the presence of the buyer, and if found deficient in weight, bread shall be added to make up the weight required by law.

Penalty for violation.

SECTION 5. Any person who shall violate any of the provisions of this act, shall forfeit for each offence the sum of ten dollars, to be recovered in an action of tort to the use of the party suing therefor. *Approved April 5, 1859.*

Chap. 175

AN ACT RELATING TO THE HANCOCK HOUSE.

Be it enacted, &c., as follows:

Governor, Lieutenant-governor, heads of departments, &c., authorized to purchase.

SECTION 1. That his excellency the governor, his honor the lieutenant-governor, the secretary of the board of education, the attorney-general, the secretary of the Commonwealth, the treasurer and receiver-general and the auditor of accounts, be, and hereby are authorized to effect, for and

in behalf of the Commonwealth, a purchase of the estate known as the Hancock House, if in their unanimous judgment and discretion, after all necessary investigation and examination, it be deemed expedient for the Commonwealth to make such purchase: *provided*, that no more than one hundred thousand dollars shall be paid therefor, and that no alterations in the external or internal arrangements of said house be made, otherwise than to keep the same in good repair while it remains the property of the Commonwealth, and that it shall never be used as a residence for the governor of the Commonwealth.

Proviso.

SECTION 2. If such purchase shall be made, they shall communicate the fact to the legislature at the session to be held in September next, and shall accompany their communication with a recommendation as to the uses to be made of said estate in the future, together with an estimate of what expense and outlays will be necessary for its repair and maintenance.

To report to legislature.

SECTION 3. If such purchase shall be made, so much of the moneys, securities or funds of the Commonwealth, derived from the claim against the government of the United States, for military services during the last war with Great Britain, as may be necessary therefor, are hereby appropriated and shall be applied to the payments for said Hancock House, authorized by this act: *provided*, that the interest of the Commonwealth in and to said house, acquired under this act, and all property of the Commonwealth therein, shall stand pledged for the payment of the debt of the Commonwealth, in the same manner as the claim aforesaid upon the general government for military services, is set apart therefor, by the act of the year one thousand eight hundred and fifty-seven, chapter one hundred and ninety-seven.

Payment to be made out of amount received from Mass. claim against the general government for military services in the war of 1812.

Proviso.

SECTION 4. This act shall take effect from and after its passage.

Approved April 5, 1859.

AN ACT TO ESTABLISH THE PAY OF THE WATCHMEN OF THE STATE HOUSE.

Chap. 176

Be it enacted, &c., as follows :

SECTION 1. The four watchmen of the state house shall receive an annual salary of eight hundred dollars each, for their services as watchmen throughout the year, and as messengers during the annual session of the legislature: and the said salaries shall be paid in quarterly payments out of the treasury of the Commonwealth, on the first days of January, April, July and October, in every year, and in the same proportion for any part of a quarter.

Annual salaries of \$800.

Act, when to take effect.

SECTION 2. This act shall take effect from and after the first day of January, in the year one thousand eight hundred and fifty-nine.

Approved April 5, 1859.

Chap. 177

AN ACT CONCERNING THE PUBLIC CHARITABLE AND REFORMATORY INSTITUTIONS OF THE COMMONWEALTH.

Be it enacted, &c., as follows:

No improvements, alterations, &c., to be made, until specific descriptions are submitted to legislature, and appropriations made.

SECTION 1. No permanent improvements, alterations or additions, other than those authorized at the present session of the legislature, shall hereafter be made in any of the state lunatic hospitals, in any of the state almshouses, in the hospital at Rainsford Island, in the reform school for boys, or in the industrial school for girls, until specific descriptions of such intended changes shall have been submitted to the legislature and special appropriations made therefor: *provided*, that nothing herein contained shall be understood to prohibit any expenditures necessary for keeping the buildings and grounds of the said institutions in good order and condition.

Annual reports, what to contain.

SECTION 2. On the thirtieth day of September, in each year, the trustees or inspectors of each of the said institutions shall cause to be made an accurate inventory of the stock and supplies on hand at such institution, and shall state the amount and value thereof in a tabular form, in their annual report, under the following heads: live stock on the farm; produce of the farm on hand; carriages and agricultural implements; machinery and mechanical fixtures; beds and bedding in the inmates' department; other furniture in the inmates' department; personal property of the state in the superintendent's department; ready made clothing; dry goods; provisions and groceries; drugs and medicines; fuel; library. The trustees or inspectors of the said institutions shall also give, in their annual reports, a list of the salaried officers of said institutions, with their salaries.

Removal of trustees and inspectors.

SECTION 3. No trustee or inspector of any of the institutions mentioned in the first section of this act, shall be removed from office before the expiration of his term, except for sufficient cause.

Approved April 5, 1859.

Chap. 178

AN ACT RELATING TO THE SALARY OF THE REGISTER OF PROBATE AND INSOLVENCY FOR THE COUNTY OF DUKES COUNTY.

Be it enacted, &c., as follows:

Salary established.

SECTION 1. The salary of the register of probate and insolvency for the county of Dukes county shall be three hundred and fifty dollars, to be paid quarterly, viz.: on the first days of January, April, July and October, in each year.

SECTION 2. All acts and parts of acts inconsistent with this act, are hereby repealed. Repeal.

SECTION 3. This act shall take effect from and after its passage. *Approved April 5, 1859.*

AN ACT TO INCORPORATE THE NATICK FIVE CENTS SAVINGS BANK. *Chap. 179*
Be it enacted, &c., as follows :

SECTION 1. Edward Walcott, Nathaniel Clark, Horace B. Morse, Willard C. Childs, Franklin Hanchett, Leonard Winch, William Edwards, their associates and successors, are hereby made a corporation, by the name of the Natick Five Cents Savings Bank, to be established in the town of Natick ; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the thirty-sixth chapter of the Revised Statutes, and in all other laws of this Commonwealth relating to institutions for savings. Corporators. Name. Location. Privileges, restrictions, &c.

SECTION 2. Said corporation shall receive on deposit sums as small as five cents. Deposits.

SECTION 3. This act shall take effect from and after its passage. *Approved April 5, 1859.*

AN ACT TO EXTEND THE TIME FOR LOCATING AND CONSTRUCTING THE ROAD OF THE DORCHESTER AND ROXBURY RAILROAD COMPANY. *Chap. 180*
Be it enacted, &c., as follows :

SECTION 1. The time required by the tenth section of the two hundred and fifty-sixth chapter of the acts of the legislature of eighteen hundred and fifty-seven, within which the said act shall be accepted by the selectmen of the town of Dorchester, and ten per cent. of the capital of said company shall be paid in, is hereby extended one year : *provided, however,* that so much of said chapter as authorizes said company to construct their railroad upon and over Hancock and Stoughton Streets in said Dorchester, shall not go into effect if the Dorchester Railway Company shall, within nine months from the passage of this act, construct a railroad from said avenue, by Upham's Corner to Meeting-house Hill, in said Dorchester. Time for acceptance of act extended. Proviso.

SECTION 2. Said company shall have the right to connect their road with the road of the Dorchester Railway Company, and to lease to, or hire the same, or any other road with which it may connect, but shall not run their cars over said roads, or use them in any manner without their consent, and only on such terms as may be mutually agreed upon. May connect with, and lease road of Dorchester Railway Company, &c.

SECTION 3. At any time after the expiration of one year from the opening for use of the tracks of said railroad, in Selectmen of Dorchester may, after one year,

order discontinu-
ance of road, &c.

any street in which the same may be located, as provided by their charter, the selectmen of Dorchester may, by vote of the major part thereof, determine that the same, or any part thereof, be discontinued: and thereupon the said location shall be deemed to be revoked, so far as regards such part as they shall order to be discontinued, and the tracks in that part thereof shall be forthwith taken up and removed in conformity with such vote or order of said selectmen: *provided*, such taking up and removal shall be at the expense of said railroad company.

Proviso.

May increase cap-
ital \$100,000.

SECTION 4. The capital stock of said company may be increased one hundred thousand dollars.

SECTION 5. This act shall take effect from and after its passage.

Approved April 5, 1859.

Chap. 181

AN ACT IN ADDITION TO AN ACT ESTABLISHING THE CITY OF SALEM.
Be it enacted, &c., as follows:

Overseers of the
poor.

SECTION 1. The board of overseers of the poor of the city of Salem shall consist of twelve persons, two from each ward, together with the mayor, who shall be, *ex officio*, a member of and chairman of said board; and said board shall have all the powers, and be subject to all the duties and liabilities, provided by law.

How elected, and
for what term.

SECTION 2. At the commencement of the next municipal year, the city council of said city shall elect one-half of said board, one from each ward, for the term of one year, and one-half, one from each ward, for the term of two years; and the said council shall, after said first election, annually, elect one-half of said board, one from each ward, for the term of two years. Vacancies may be filled in said board by said council; and the person elected to fill any vacancy shall hold office during the term for which his predecessor was elected.

Vacancies.

Repeal.

SECTION 3. All the provisions of an act establishing the city of Salem, and the acts additional thereto, inconsistent herewith, are hereby repealed. This act shall take effect after the next annual municipal election: *provided*, it shall be accepted by the city council of said city.

Act, when to take
effect.
Proviso.

Approved April 5, 1859.

Chap. 182

AN ACT TO INCREASE THE CAPITAL STOCK OF THE ATLAS BANK.
Be it enacted, &c., as follows:

Increase of capi-
tal authorized.

The president, directors and company of the Atlas Bank, in Boston, are hereby authorized to increase their capital stock, by an addition thereto, not exceeding five hundred thousand dollars: *provided*, that such increase shall be

subject to the provisions, duties, restrictions, liabilities and privileges, set forth in the act passed May twenty-fourth, eighteen hundred and fifty-one, entitled "An Act in addition to an Act entitled An Act to authorize the Business of Banking;" and *provided, also*, that no part of the additional capital aforesaid, shall be exempted from taxation, until the whole circulation of said bank shall exceed the amount already allowed by law.

Subject to provisions of act of 1851.

Proviso.

Approved April 5, 1859.

AN ACT RELATING TO ATTACHMENTS OF REAL ESTATE.

Be it enacted, &c., as follows:

In all writs issuing from the justices' court of the county of Suffolk, or from police courts, or from justices of the peace, wherein the debt or damages demanded exceeds twenty dollars, an attachment of lands or tenements may be made with the same effect, and in the same manner, as if such attachments were made upon a writ issuing from the court of common pleas.

Chap. 183

Writs issuing from certain courts, - when debt exceeds twenty dollars.

Approved April 5, 1859.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO RAISE THE DAM AT THE OUTLET OF LAKE COCHITUATE.

Be it enacted, &c., as follows:

SECTION 1. The city of Boston is hereby authorized, by and through the agency of the Cochituate Water Board therein, or by and through any other agency which shall be established therefor, by the city council of said city, to raise the dam at the outlet of Lake Cochituate, formerly called "Long Pond," lying in the towns of Natick, Wayland and Framingham, to the height of ten feet above the floor of "Knight's Flume," so called, and may also take and hold, from time to time, by purchase or otherwise, any lands or real estate on and around the margin of said lake, not exceeding five rods in width, measuring from the verge of said lake, when the same shall be raised to the level authorized by this act, so far as such lands and real estate may be necessary for the preservation and purity of said lake, for the purpose of furnishing a supply of pure water for said city of Boston: *provided, however*, that no lands or real estate taken or purchased under this act, shall be exempted from taxation, by reason of such taking or purchase. All lands and real estate within said towns, heretofore taken or purchased, and now held by said city by virtue of an act approved March thirtieth, eighteen hundred and forty-six, or by virtue of any other act heretofore passed, shall be and remain exempted from taxation, so long as they continue to be so held and used for the purposes of said acts.

Chap. 184

City of Boston authorized to raise dam.

May take and hold real estate.

Proviso.

Exemption from taxation.

City to be liable
for all damages
sustained.

Rights and rem-
edies.

City to indemnify
Natick and Way-
land.

Act not to take
effect until, &c.

SECTION 2. The said city of Boston shall be liable to pay all damages that shall be sustained by any persons in their property, by the taking of any land or real estate, or by the flowage of the lands of any person as aforesaid; and in regard to such taking and flowing and the ascertainment and payment of all such damages, the said city of Boston, and all persons claiming damages, shall have all the rights, immunities and remedies, and be subject to all the duties, liabilities and obligations, which are provided in the one hundred and sixty-seventh chapter of the acts of the year one thousand eight hundred and forty-six, the one hundred and eighty-seventh chapter of the acts of the year one thousand eight hundred and forty-nine, and the three hundred and sixteenth chapter of the acts of the year one thousand eight hundred and fifty. Said city of Boston shall also indemnify said towns of Natick and Wayland, against all injury which may at any time be done to any highway or bridge in such towns, by reason of the raising of the water, and maintaining the dam, as herein before provided.

SECTION 3. This act shall not take effect, until said city of Boston shall have paid to the said town of Framingham, the sum of forty-five hundred dollars; to the said town of Natick, the sum of three thousand dollars, and to the said town of Wayland, the sum of one thousand dollars; nor until said act shall have been accepted by the city council of said city of Boston.

Approved April 5, 1859.

Chap. 185

AN ACT CONCERNING ACTIONS ON JUDGMENTS.

Be it enacted, &c., as follows:

Defences in ac-
tions obtained on
judgment by de-
fault.

Proviso.

Whenever an action is or shall be brought upon a judgment obtained by default, and without the knowledge of the defendant, the court may, in their discretion, and upon such terms as they shall deem reasonable, allow the defendant to show in defence any payment, satisfaction or extinguishment, of the claim, prior to the obtaining of such judgment, or any matter of fraud, which in either case he might have shown upon a writ of review in the original suit: *provided*, such action be brought within six years from the rendition of such judgment.

Approved April 5, 1859.

Chap. 186

AN ACT CONCERNING THE AGENT AND DRAW-TENDERS OF CHARLES RIVER AND WARREN BRIDGES.

Be it enacted, &c., as follows:

Office of agent
abolished.

Draw-tenders.

SECTION 1. The office of agent of Charles River and Warren Bridges is hereby abolished.

SECTION 2. The draw-tenders for the Charles River Bridge and the Warren Bridge, shall hereafter be appointed

by the governor and council, annually, in the months of February or March, and may be removed for incompetency or neglect of duty, by the governor and council; and when a vacancy shall occur by reason of death, removal or otherwise, such vacancy may be filled at any time by the governor and council. The draw-tender on Charles River Bridge shall have an annual salary of eleven hundred dollars, and the draw-tender on the Warren Bridge an annual salary of one thousand dollars, to be paid in quarterly payments, which shall be in full for all services, as hereinafter provided; said salaries to be paid from the fund belonging to said bridges.

Appointment and
removal.

Salaries.

SECTION 3. The draw-tenders on said bridges shall furnish all the assistance necessary for opening and closing the draws in said bridges, and for the true and faithful performance of all duties required of them, by the acts of eighteen hundred and fifty-six, chapter two hundred and eighty-second; they shall also have the care of the lamps upon said bridges, and perform all the labor necessary in lighting and extinguishing the same; they shall also cause the snow and ice to be properly removed from the sidewalks of said bridges whenever it becomes necessary: all of said work shall be performed at their expense, without additional charge.

Duties

SECTION 4. The dwelling-house near the draw of each of said bridges shall be appropriated to the use of said draw-tenders, with sufficient fuel and gas for warming and lighting the same, without charge; and they shall be required to reside in said houses: there shall also be provided for the use of said draw-tenders, one horse for each bridge, to assist in opening and closing said draws; said dwellings to be kept in repair, and said horses purchased, stabled and provisioned, by the said draw-tenders, and the expense paid from the fund belonging to said bridges; the care and tending said horses shall be part of the duties of the said draw-tenders, and shall be performed at their expense.

Dwelling-houses,
&c., to be pro-
vided.

SECTION 5. In addition to the duties required by section second, the said draw-tenders are hereby authorized to require of all persons or corporations a faithful fulfilment of all obligations or agreements they are or may be under to perform any duties upon or in connection with said bridges; and in case of neglect of any such duty, or the refusal to comply with any agreement or obligation, said draw-tenders shall report the same to the prosecuting officer of this Commonwealth, that legal proceedings may be instituted to enforce the observance of all such obligations or

Obligations and
agreements.

Authorized to let certain property.	contracts; said draw-tenders are also authorized to let any building, privilege or other property not otherwise appropriated, which belongs to their respective bridges, and which can be let without detriment to their interest, or interfering with their legitimate use, on such terms as they may deem for the interest of the fund belonging to said bridges, subject, however, to the approval of the governor and council; it shall also be the duty of said draw-tenders to see that their respective bridges are kept in good repair, and do all other things necessary in regard to said bridges. Each of said draw-tenders shall make a quarterly report of their respective bridges to the governor and council, giving a true statement of all receipts and expenditures. In addition to their quarterly reports, they shall be required on or before the fifteenth day of January in each year, to make a report to the legislature, of their doings as said draw-tenders, to which report shall be added a specific account of all their receipts and expenditures for the preceding year, ending on the first day of January.
Repairs.	
Annual report.	
Shall give bond.	SECTION 6. Each draw-tender shall give a bond to the treasurer of the Commonwealth in the sum of two thousand dollars, with satisfactory surety or sureties, for the faithful performance of his duties.
Inconsistent acts repealed.	SECTION 7. All acts or parts of acts inconsistent with this act, are hereby repealed. <i>Approved April 5, 1859.</i>

Chap. 187

AN ACT TO INCORPORATE THE UNION STEAMSHIP COMPANY.

Be it enacted, &c., as follows:

Corporators.	SECTION 1. Donald McKay, James W. Converse, Isaac Rich, John B. Alley, Daniel Lewis, Lee Claflin, their associates and successors, are hereby made a corporation by the name of the Union Steamship Company; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.
Name.	
Privileges, restrictions, &c.	
May build steamships, &c.	SECTION 2. The said company are hereby authorized and empowered to build, purchase, hold and convey, one or more steamships, and navigate the ocean therewith between any port or ports in this Commonwealth and New Orleans, or any port or ports on the Gulf of Mexico.
Personal estate, \$400,000.	SECTION 3. Said company may hold personal property not exceeding in value four hundred thousand dollars.
Number and amount of shares to be fixed by by-laws, &c.	SECTION 4. The number of shares into which the capital stock of said company shall be divided, and the amount of each share, shall be fixed by the by-laws, and said company shall have power to assess from time to time, upon such

shares such sums as may be deemed necessary to accomplish the object of said company; but no share shall be assessed for a greater sum in the aggregate than the amount of such shares so fixed.

SECTION 5. If said corporation shall not, within one year from the passage hereof, have been organized, and have collected an assessment or assessments of ten per cent. on the capital stock, and shall not within three years from the passage hereof, have placed on the aforesaid route at least two steamships for the purposes of said company, and shall not use the same for the purposes herein set forth, then this act shall be null and void.

Company to organize within one year, and collect ten per cent. on capital.

To place on route two steamships within three years.

SECTION 6. This act shall take effect from and after its passage.

Approved April 5, 1859

AN ACT IN ADDITION TO THE SEVERAL ACTS CONCERNING THE ATTENDANCE OF CHILDREN AT SCHOOL. Chap. 188

Be it enacted, &c., as follows:

In addition to the requirements of chapter three hundred and nine of the acts of eighteen hundred and fifty-five, it shall be the duty of the school committee and truant officers, to give prompt notice to the treasurers of their respective towns and cities, of the violation of the provisions of the first section of chapter two hundred and forty, of the acts of eighteen hundred and fifty-two, and also to notify such treasurer of the requirements of the fifth section of said last named act; and if, after such notice, any treasurer shall wilfully neglect or refuse to perform the duties prescribed in said fifth section, he shall forfeit to the use of the town or city a sum not exceeding twenty dollars, to be recovered by complaint or indictment.

Additional duties imposed upon school committees and truant officers.

Penalty on town treasurer for neglect.

Approved April 5, 1859.

AN ACT IN RELATION TO DIVIDENDS BY SAVINGS BANKS.

Be it enacted, &c., as follows:

SECTION 1. Every savings bank and institution for savings in this Commonwealth, may make ordinary dividends of the profits of the banks or institution aforesaid, every six months, and extra dividends at such times as they may determine by by-law, out of the accrued profits of said savings banks.

Chap. 189

When dividends may be made.

SECTION 2. The managers or trustees of savings banks or institutions for savings, shall cause examinations to be made, prior to the declaration of any dividends, whether ordinary or extra; and shall declare no dividends except such as shall have accrued at the time of such examination.

Examination to be made before declaring.

SECTION 3. No treasurer shall pay any dividends to a depositor on account of a deposit, in any savings bank or

Dividends to be duly authorized.

institution for savings, unless the same shall first have been duly authorized by vote of the trustees or managers.

Approved April 5, 1859.

Chap. 190 AN ACT EXTENDING THE JURISDICTION OF THE JUSTICES' COURT OF THE COUNTY OF SUFFOLK.

Be it enacted, &c., as follows:

Jurisdiction in actions of \$300.

In all cases in which, by existing laws, the justices' court of the county of Suffolk has jurisdiction of civil actions, wherein the debt or damages demanded are one hundred dollars, or less, said court shall hereafter have jurisdiction, if the damages or debt demanded, are three hundred dollars, or less.

Approved April 5, 1859.

Chap. 191 AN ACT IN ADDITION TO AN ACT TO INCORPORATE THE BEVERLY INSURANCE COMPANY.

Be it enacted, &c., as follows:

May issue fire policies.

The Beverly Insurance Company is hereby authorized to issue policies for the purpose of insuring dwelling-houses and other buildings, and personal property, against loss or damage by fire; with all the powers and privileges, and all the duties, liabilities and restrictions, set forth in chapter two hundred and fifty-two of the acts of the year one thousand eight hundred and fifty-six, and in all other laws of this Commonwealth applicable to stock fire insurance companies.

Approved April 5, 1859.

Chap. 192 AN ACT IN ADDITION TO AN ACT TO AUTHORIZE THE WESTERN RAILROAD CORPORATION TO ISSUE BONDS.

Be it enacted, &c., as follows:

Act of 1855 repealed in part.

SECTION 1. So much of the four hundred and fifty-sixth chapter of the acts of the year one thousand eight hundred and fifty-five, entitled "An Act to authorize the Western Railroad Corporation to issue bonds," as authorizes the Western Railroad Corporation to execute a mortgage in fee simple of the Western Railroad and its equipments and appurtenances, is hereby repealed.

SECTION 2. This act shall take effect from and after its passage.

Approved April 5, 1859.

Chap. 193 AN ACT RELATING TO THE TITLES OF JUSTICES OF THE PEACE DESIGNATED AND COMMISSIONED TO TRY CRIMINAL CASES.

Be it enacted, &c., as follows:

To be designated "Trial Justices."

Justices of the peace designated and commissioned to try criminal cases, by authority of the one hundred and thirty-eighth chapter of the acts of the year eighteen hundred and fifty-eight, shall be hereafter known and designated as trial justices.

Approved April 5, 1859.

AN ACT CONCERNING THE LIABILITY OF ASSIGNEES [FOR COSTS IN
CERTAIN CASES. *Chap. 194*

Be it enacted, &c., as follows:

SECTION 1. Any suit hereafter brought upon any claim or demand sold by any assignee of the estate of any insolvent debtor by authority of law, shall be brought in the name of the purchaser of such claim or demand; and the fact of such sale by the assignee, and purchase by the plaintiff, in such suit, shall be set out in the writ. And the assignees of the estates of insolvent debtors shall not be liable for any costs which may accrue upon suits brought upon claims or demands so sold by them; but the purchaser thereof shall be liable for costs in such suits in the same manner as the plaintiff in any other suit would be.

Purchaser of any claim must bring suit in his own name.

Assignee not liable.

SECTION 2. In any such suit the defendant may avail himself of any matter in defence which he might have set up in defence to a suit upon the claim or demand by the assignee of such estate.

Same defence as if brought by assignee.

Approved April 5, 1859.

AN ACT TO AUTHORIZE THE WARREN INSTITUTION FOR SAVINGS
TO HOLD ADDITIONAL REAL ESTATE. *Chap. 195*

Be it enacted, &c., as follows:

SECTION 1. The Warren Institution for Savings, a corporation established in the city of Charlestown, is hereby authorized to hold real estate to an amount not exceeding sixty thousand dollars.

Real estate, \$60,000.

SECTION 2. The twenty-third chapter of the statutes passed in the year eighteen hundred and fifty-one, and the one hundred and ninety-fifth chapter of the statutes passed in the year eighteen hundred and fifty-four, which authorize the said corporation to hold real estate to a less amount, are hereby repealed.

Acts of 1851 and 1854 repealed.

SECTION 3. This act shall take effect from and after its passage.

Approved April 5, 1859.

AN ACT ESTABLISHING THE SUPERIOR COURT.

Chap. 196

Be it enacted, &c., as follows:

SECTION 1. There shall be established a court to be called the "Superior Court," which shall have the same powers and jurisdiction in all actions and proceedings at law, whether civil or criminal, as the supreme judicial court, the court of common pleas, the superior court of the county of Suffolk, and the municipal court of the city of Boston now have, except as hereinafter provided.

Superior court established.

Jurisdiction and powers.

SECTION 2. The court shall also have jurisdiction to hear and determine all questions of fact to be tried by a jury,

To try questions of fact, except, &c.

except as hereinafter provided, and except questions of damages now by law to be heard before a jury in the country.

Pending actions
transferred.

SECTION 3. All cases pending at the time this act shall take full effect, whether civil or criminal, in the superior court of the county of Suffolk, the court of common pleas, the municipal court of the city of Boston, and all actions at law and appeals in cases of insolvency now pending in the supreme judicial court, wherein the debt or damage sought to be recovered or property claimed, if in the county of Suffolk, does not exceed four thousand dollars, or if in any other county one thousand dollars, and all capital cases, shall be transferred to and have day in the proper term of the superior court in the respective counties. And all writs, processes, complaints, petitions, libels, appeals and proceedings whatever which are made returnable or to be entered in either of said courts, or to the supreme judicial court, in actions at law and appeals in insolvency, wherein the amount of property claimed or sums demanded is limited as aforesaid, shall be returnable to, entered and have day in the proper term of said superior court. And all judicial writs and processes and copies founded upon the records of said courts, shall issue under the seal of the superior court in like manner, and to the same effect as the same might have issued from the said courts, if this act had not been passed; and all writs and processes may be made returnable to the several terms of said courts now established by law, till this act shall take full effect, and then all such writs and processes shall be made returnable to the terms herein established.

Custody of re-
cords of former
courts.

SECTION 4. The records of the court of common pleas, and superior court of the county of Suffolk, shall remain in the custody of the clerks of the superior courts, for their respective counties, and the records of the municipal court shall remain in the custody of the clerk of the superior court for criminal business in the county of Suffolk.

Appellate juris-
diction in cases
of insolvency.

SECTION 5. The superior court shall have appellate jurisdiction of all matters of insolvency determinable by the courts of probate and of insolvency and the judges thereof, in all other matters where an appeal is allowed by law, and by commissioners of insolvency on the estates of deceased persons, except in cases where other provision is specially made. And in all other cases the said court shall have the same appellate jurisdiction and power to exercise such jurisdiction as the supreme judicial court, the court of common pleas, the superior court of the county of Suffolk, and the

municipal court of the city of Boston now have, except as herein otherwise provided.

SECTION 6. All petitions for divorce and all appeals from the court of probate, shall be returnable to the supreme judicial court and shall be determined therein. Every original process in equity, whether by bill, writ, petition or otherwise, shall be commenced in, and be made returnable to the supreme judicial court, at the terms in the several counties, as established in the fifty-sixth section of this act, or at rule days to be established by the court.

Divorce and probate, where returnable.

Equity process, where returnable.

SECTION 7. There shall be appointed, commissioned and qualified, agreeably to the constitution, ten suitable persons as justices of the superior court, one of whom shall be appointed, commissioned and qualified, as chief justice thereof; and as vacancies occur, they shall be filled by appointment in the same manner.

Ten justices to be appointed.

SECTION 8. The clerks and assistant-clerks of the supreme judicial court, (except the clerks of said court in the county of Suffolk,) court of common pleas, superior court, and municipal court of the city of Boston, now in office, shall be clerks and assistant clerks of the superior court in their respective counties, until their successors are qualified; and they shall have the same power and duties, and receive the same compensation they now have and receive.

Clerks, their powers, duties and compensation.

SECTION 9. In the year eighteen hundred and sixty-one, and every fifth year thereafter, clerks of the superior court shall be elected in the several counties, to hold their offices from the first Wednesday of January following, that is to say: for the county of Suffolk two clerks, one for the civil and one for the criminal business of said court. For each of the other counties, one clerk, who shall also be clerk of the supreme judicial court for those counties. The court may appoint one assistant-clerk for the civil business for the county of Suffolk, and one assistant-clerk for each of the counties of Worcester and Middlesex, to hold their offices for the term of three years from the first Wednesday of January next after their appointment, who shall also, in the counties of Worcester and Middlesex, be assistant-clerk of the supreme judicial court for those counties. The said clerks and assistant-clerks shall receive the same salaries as are now provided by law for the several clerks of the courts and their assistants in their respective counties, to be paid or retained in the same manner, except that in the county of Suffolk the fees received by said clerks shall be accounted for and paid over to the treasurer of the Commonwealth, after retaining an amount therefrom equal to the amount of

Clerks, number of and how to be chosen.

Assistant-clerks, how appointed.

Compensation.

Fees to be accounted for.

their salaries, which shall be for the clerk and assistant-clerk of the superior court for civil business, the same as that of the clerk and assistant-clerk of the superior court of the county of Suffolk, respectively, and for the clerk for criminal business, the same as that of the clerk of the municipal court. The clerks of courts shall also be clerks of the county commissioners. And all fines, penalties, forfeitures and costs, now paid or accounted for by the officers of the superior court for the county of Suffolk, municipal court of the city of Boston, or supreme judicial court in the county of Suffolk, to the treasurer of the county of Suffolk, or of the city of Boston, shall be accounted for and paid over to the treasurer of the Commonwealth. All said clerks shall be qualified and give bond in the same manner and amount as hereinafter provided, as to the clerk of the supreme judicial court for the Commonwealth.

Qualification and
bonds of clerks.

Terms of the
court.

Essex.

SECTION 10. The court shall be held in every year at the times and places following, that is to say : For the county of Essex, for civil business, at Salem on the first Mondays of June and December, at Lawrence on the first Monday of March, and at Newburyport on the first Monday of September ; for criminal business, at Lawrence on the third Monday of January, at Newburyport on the second Monday of May, and at Salem on the fourth Monday of October.

Middlesex.

For the county of Middlesex, for civil business, at Lowell on the second Monday of March and the first Monday of September, at Concord on the first Monday of June, and at Cambridge on the second Monday of December ; for criminal business, at Cambridge on the second Monday of February, at Concord on the fourth Monday of June, and at Lowell on the third Monday of October.

Hampshire.

For the county of Hampshire, at Northampton, for civil business, on the third Monday of February, the first Monday of June, and on the third Monday of October ; for criminal business, on the second Monday of June and third Monday of December.

Franklin.

For the county of Franklin, at Greenfield on the third Monday of March, and the second Mondays of August and November.

Hampden.

For the county of Hampden, at Springfield, for civil business, on the second Mondays of March and June, and the first Monday of October ; for criminal business, on the third Monday of May and first Monday of December.

Berkshire.

For the county of Berkshire, at Lenox, for civil business, on the fourth Mondays of February, June and October ; for criminal business, on the first Mondays of January and July.

For the county of Norfolk, at Dedham on the fourth Monday of April, and the third Mondays of September and December. Norfolk.

For the county of Plymouth, at Plymouth on the second Monday of June and third Monday of October, and on the second Monday of February. Plymouth.

For the county of Bristol, at Taunton on the second Mondays of March and September, and at New Bedford on the second Mondays of June and December. Bristol.

For the county of Suffolk, for civil business, at Boston on the first Tuesdays of January, April, July and October ; for criminal business, at Boston on the first Monday of every month. Suffolk.

For the county of Barnstable, at Barnstable on the Tuesday next after the first Monday of April, and on the first Tuesday of September. Barnstable.

For the county of Nantucket, at Nantucket on the first Mondays of June and October. Nantucket.

For the county of Dukes county, at Edgartown on the last Mondays of May and September. Dukes.

For the county of Worcester, for civil business, at Worcester on the first Monday of March, the Monday next after the fourth Monday of August, and on the second Monday of December ; and at Fitchburg on the second Mondays of June and November ; for criminal business, at Worcester on the third Monday of January, the second Monday of May and the third Monday of October ; and at Fitchburg on the second Monday of August. Worcester.

SECTION 11. In the counties where both civil and criminal terms are established, civil business exclusively shall be transacted at civil terms, and criminal at criminal terms ; and continuances of civil and criminal cases shall be to civil and criminal terms, respectively, without any special order therefor. Civil and criminal business to be transacted at respective terms therefor.

SECTION 12. In such counties, civil suits on recognizances entered into in criminal prosecutions, shall be returnable to and have day in criminal terms. Suits on recognizances in criminal matters.

SECTION 13. Two or more sessions of the court may be held in the same county, at any term, for the transaction of civil or criminal business, when the public interests require ; and such division of the business may be at any time made as shall conduce to its more speedy and convenient despatch. Two or more sessions in same county.

SECTION 14. Jurors and grand jurors shall be drawn, summoned, returned and impanelled in like manner as in the supreme judicial court, court of common pleas, and municipal court, by existing laws. Jurors, grand and petit, how impanelled.

Laws applicable
to other courts
to apply.

SECTION 15. All laws applicable to the supreme judicial court, court of common pleas, superior court of the county of Suffolk, and municipal court of the city of Boston, shall apply to the superior court so far as consistent with the provisions of this act.

Court to estab-
lish seal, appoint
officers, &c.

SECTION 16. The court shall have power to establish a seal for said court, and the same power to issue all writs and processes, and to appoint all officers that may be necessary for the transaction of the business of the court, which the supreme judicial court now have, except as hereinafter provided, which writs and processes may run into any county.

Salaries of jus-
tices.

SECTION 17. The chief justice of the court shall receive an annual salary of three thousand seven hundred dollars, and each of the associate justices an annual salary of three thousand five hundred dollars, and at the same rate for any part of a year, to be paid quarterly, from the treasury of the Commonwealth.

First day of term,
how designated.

SECTION 18. In writs, processes, records and judicial proceedings of all kinds, whether civil or criminal, the day on which any term begins may be designated as the first, second or other Monday, or other day of the week, as the case may be, in the month in which the same shall happen.

Adjournment of
court, in absence
of justice.

SECTION 19. When no justice is present at the time and place appointed for holding a court, whether at the beginning of a term, or at an adjournment thereof, the sheriff of the county, or either of his deputies, may adjourn the court from day to day, and from time to time, as the circumstances may require, or as may be ordered by any of the justices; and he shall give notice of any such adjournment by making public proclamation in the court house, and by a notification thereof, posted on the door of the court house, or published in some newspaper.

Court to allow
expenses.

SECTION 20. The court shall receive, examine and allow, the accounts for services and expenses incident to the court, in the several counties, and shall order payment thereof conformably to law.

Capital and other
high crimes, how
tried.

SECTION 21. Every person indicted for an offence punishable by death or by imprisonment for life only, shall be tried in the superior court by three justices; and in all respects the party accused shall have the same rights that a party indicted for a capital offence now has; and he shall have the right of appeal and exception as hereinafter provided.

Rotation in ad-
ministration of
criminal law.

SECTION 22. No justice shall hold in any one year more than three terms for the transaction of criminal business only.

SECTION 23. Costs and fees charged, taxed and recovered, shall be the same as now in the supreme judicial court, except in cases where other provision is made, and in criminal business, the same as now taxed in the court of common pleas. Costs and fees.

SECTION 24. In actions at law brought originally in the superior court, wherein damages are recovered in the sum of twenty dollars or less, the costs shall be determined as follows: Costs in certain cases, how determined.

First—In all cases in which by existing laws the plaintiff recovers full costs though less than twenty dollars as damages, he shall recover full costs.

Second—In all other cases, if the plaintiff recover twenty dollars or less he shall recover no costs.

SECTION 25. In all cases of appeal from a justices' court, police court, or justice of the peace, wherein the party appealing shall not recover more debt or damages than he recovered in the court below, with interest thereon, he shall recover no costs; but the adverse party shall recover full costs. Costs, in cases of appeal.

SECTION 26. Any party aggrieved by the judgment of the court on any matter of law, civil or criminal, apparent on the record, except judgment on any plea in abatement or motion to dismiss for defect in form of process, may appeal therefrom to the law term of the supreme judicial court; but such appeal shall not transfer the case from the superior court, but only the question to be determined. Appeals.

SECTION 27. A party whose motion for a new trial is overruled and who is aggrieved by any opinion, ruling, direction or judgment of the court in matter of law in any case, civil or criminal, except upon questions arising on pleas in abatement or motions to dismiss, except for defect of form of process, and any party who is aggrieved by any opinion, ruling, direction or judgment of the court in matter of law, except as above provided, in any civil or criminal proceeding, suit or action, whether it be according to the course of the common law or otherwise, may allege exceptions thereto, which being reduced to writing in a summary mode, and filed with the clerk, and notice thereof being given to the adverse party, may be presented to the court before the adjournment, without day of the term at which his motion is so made, and he is so aggrieved, and within three days after the verdict in the case, or after the order, ruling or decree excepted to is made, if in a case not on trial, and being examined and found conformable to the truth, shall be allowed by the judge presiding at the court, unless for good cause shown, further time, not to exceed five days, Exceptions.

shall be allowed by the court. And in all cases the adverse party shall have opportunity to be heard concerning the allowance of such exceptions.

And such exceptions shall be restored to the files of the court within five days after the same are presented to the judge, with a certificate under his hand, either allowing or disallowing the same, unless the judge shall find that further time, not to exceed ten days, be necessary for the above purposes.

But in no case of exceptions shall the action be removed from the superior court, but only the question to be determined.

Trials not to be delayed by exceptions.

SECTION 28. The trial of questions of fact shall not be prevented or delayed by the filing or allowance of exceptions, but the court shall proceed to the determination of such questions as if exceptions had not been taken.

Truth of exceptions may be proved.

SECTION 29. If the justice disallow or fail to sign and return the exceptions, or alter any statement therein, and either party be aggrieved, the truth of the exceptions presented may be established before the supreme judicial court upon petition setting forth the grievance, and thereupon, the truth thereof being thus established, the exceptions shall be heard, and the same proceedings had as if they had been duly signed and brought up to said court with the petition: *provided*, that the allowance thereof shall not in any case transfer the case from the superior court, but only the question to be determined.

Proceedings thereafter.

Proviso.

In certain civil actions of damages, &c., S. J. C. to have original and concurrent jurisdiction.

SECTION 30. The supreme judicial court shall have original and concurrent jurisdiction with the superior court, of all civil actions in which the damages demanded or property claimed shall exceed in amount or value four thousand dollars if brought in the county of Suffolk, and one thousand dollars if brought in any other county, if the plaintiff, or some one in his behalf, before service of the writ, shall make oath or affirmation before some justice of the peace that he verily believes the matter sought to be recovered actually exceeds in amount or value said sums respectively; a certificate of which oath or affirmation shall be indorsed on or annexed to the writ. And if any action at law whereof the supreme court has original jurisdiction, is made returnable to the superior court, the same may be removed to the supreme court as actions may now be removed from the court of common pleas to the supreme court: *provided, however*, that in any action brought originally in the supreme court, or removed by consent therein, if the plaintiff shall not recover three hundred dollars, he shall recover no cost.

Proviso.

SECTION 31. The taking an appeal, or the allowance of exceptions, shall not in any way affect any security in any case, either civil or criminal, either by bond, attachment or otherwise, by or for any party, but the same shall stand till final judgment in the superior court, as if no question had been transferred to the supreme judicial court.

Security to stand till final judgment.

SECTION 32. The court may, at any time after verdict and before judgment in a civil action, set aside the verdict and order a new trial, for any cause for which a new trial may by law be granted; or may report the case for determination by the supreme judicial court.

New trials or reports to S. J. C. in civil actions.

SECTION 33. The clerks shall, at the expense of the party appealing or taking exceptions, or at the expense of the plaintiff if a case is reserved or reported, and at the expense of the Commonwealth in all criminal cases, prepare and transmit to the supreme judicial court one copy of every paper on file in the case, except papers used in evidence only, and also one copy of all papers made part of the case or referred to in the bill of exceptions, or report, or so much thereof as may be necessary fully to present the question of law, for the use of the chief justice, and like copies for the clerk of the supreme judicial court, to be kept on file in said court; and one copy of the bill of exceptions, or report, or papers upon which the question of law arises on appeal, for each associate justice, and a like copy for each party and the reporter of decisions. And in case any original papers used in the trial of the cause, shall be needed in the supreme judicial court, they shall be transmitted to the clerk of said court, to be by him kept on file until the rescript in such action shall be sent down. And the expense of such copies and transmission shall be taxed in the bill of costs of the prevailing party, if he shall have paid the same.

Copies of papers in reserved and reported cases to be furnished by clerks.

Original papers to be sent to S. J. C. when needed.

Expense of copies.

SECTION 34. When a question of law arises, at any term of the superior court, upon appeal, by bill of exceptions or reserved case, the copies and papers relating thereto shall, within fifteen days after the adjournment of the court for that term, without day, be transmitted to and entered in the supreme judicial court as herein provided.

Copies of exceptions, &c., to be sent up within 15 days.

SECTION 35. The superior court may from time to time, make rules for regulating the practice and conducting the business therein in all cases not expressly provided for by law: *provided*, that such rules be not repugnant to the laws of the state. And it shall be the duty of the justices of said court and the supreme judicial court to establish a uniform code of rules for their respective courts before the first day of January next, to take effect on that day; and

Rules, when and how to be made.

until such code is established the rules of the court of common pleas shall be the rules of the superior court in actions and proceedings at law.

Law terms of S.
J. C., when held.
Boston.

SECTION 36. A law term of the supreme judicial court shall be held at Boston on the first Wednesday of January of each year, which term may be adjourned from time to time, to such places and times as may be most conducive to the dispatch of business and the interests of the public; and all questions of law, whether arising upon appeal, exception, or otherwise, and from whichever court, shall be therein entered and determined if the same arise in either of the following counties: Essex, Suffolk, Middlesex, Norfolk, Plymouth, Bristol, Barnstable, county of Dukes county or Nantucket, and all questions of law in criminal cases.

And law terms of said court shall also annually be held as follows:

Lenox.

At Lenox, within and for the county of Berkshire, on the second Tuesday of September.

Northampton.

At Northampton, in the county of Hampshire, and for the counties of Hampshire and Franklin, on the Monday succeeding the second Tuesday of September; at Springfield, within and for the county of Hampden, on the fourth Monday of September.

Worcester.

At Worcester, within and for the county of Worcester, on the first Monday of October.

Questions of law
to be heard in
their respective
districts, provid-
ed, &c.

And in said terms shall be entered and heard all questions of law arising in said judicial districts respectively, except in criminal cases: *provided, nevertheless*, that in any case, in the supreme judicial court or superior court when sitting in either of said counties, if all parties agree thereto in a writing, to be filed in the case, the questions of law may be entered and heard in the term at Boston as aforesaid; and *provided, also*, that if the judge before whom any action or proceeding is tried in either of said courts, in which a question of law is saved or in any manner arises for the determination of the law court, shall certify that he deems the exception or appeal frivolous or intended for delay merely, or that the interests of the parties or the public require a more speedy determination thereof than can be attained in the terms established for the county in which the trial is had, he may order the questions of law to be entered and heard in the court at Boston; and all the other proceedings shall be the same as if the questions had arisen in one of the counties first named in this section.

Existing laws,
consistent here-
with, to continue
in force.

SECTION 37. All laws applicable to the supreme judicial court now existing, shall continue in force, so far as consistent herewith.

SECTION 38. All petitions for writs of error not issuable as of right, *certiorari*, *mandamus*, prohibition and *quo warranto*, and other special writs issuing according to the course of proceedings in equity, and all other writs and processes to courts of inferior jurisdiction, corporations and individuals, that shall be necessary to the furtherance of justice and the regular execution of the laws, and all questions arising upon returns to writs of *habeas corpus*, except questions under the provisions of the four hundred and eighty-ninth chapter of the acts of the year eighteen hundred and fifty-five, and acts in addition thereto, not issued to bring up a party for the purposes of trial or as a witness, shall be presented to and heard by a justice of the supreme judicial court, or by said court when such justice shall desire the hearing to be adjourned before such court, or any question of law shall arise thereon; but the writ which may issue shall be returned to, entered in, and proper process issued from, and the record of the proceedings had thereon, made in the court for such county as said justice or court shall by rescript order.

Supreme judicial court to issue special writs returnable to same court.

SECTION 39. A majority or more of the justices of the supreme judicial court, for the time being, shall have the same power and authority that a full court now has.

Majority of justices to have full power.

SECTION 40. There shall be a clerk of the supreme judicial court for the Commonwealth, who shall be appointed by the supreme judicial court, and hold his office for five years from his appointment, unless sooner removed in the manner provided by law for the removal of clerks of courts by the supreme judicial court. And the clerk of said court for the county of Suffolk shall act as clerk of said court for the Commonwealth until his successor is elected and qualified. An assistant-clerk may be appointed by the supreme judicial court, to hold his office for three years from the first Wednesday of January next after his appointment, unless sooner removed by the court, who shall be sworn to the faithful discharge of his duties by some justice of the court, and who shall receive an annual salary of fifteen hundred dollars, to be paid quarterly from the treasury of the Commonwealth, and at the same rate for any part of a year.

Clerk of supreme judicial court. Appointment and tenure of office.

Assistant-clerk of same.

SECTION 41. The clerk shall be sworn to the faithful performance of his duties and trusts before some justice of said court, and give bond to the treasurer of the Commonwealth, with sufficient surety or sureties, approved by such justice, in the sum of two thousand dollars, for the faithful discharge of such duties and trusts.

Clerk to be sworn, and give bond.

Duties of the clerk.

SECTION 42. It shall be the duty of the clerk to attend all sessions of the court, to preserve all the files and papers thereof, to keep a docket record of all questions transferred to, and all petitions, complaints or other process presented to said court, entering thereon the name of the parties in full, and the name of the counsel appearing in behalf of either party, with a brief description of the kind of action or proceeding; to record thereon accurate minutes of all orders, decrees or directions of the court in each case, and to transmit forthwith to the clerks of courts, in the several counties, all rescripts made or ordered by the court, together with the papers which should be returned to the supreme and superior court in each case; and to receive and keep safely all papers transmitted to him by the clerks of the courts.

Copies of papers and record and issue of writs.

SECTION 43. The clerk shall make all copies of papers on file in said court, and of the docket record thereof which may be desired, and certify the same under the seal of the court; and issue such writs or other process as he may be directed to do by the court: he may charge and receive the same fees which are provided by law for like services for clerks of courts, and when no express sum is fixed by law, he shall charge and receive no more than a fair compensation for the services required of him in analogy to like services for which a compensation is fixed by law, except that for entry upon the docket, the record, the transmission of all necessary papers and the rescript in each case, he shall receive one dollar and fifty cents: he shall annually, before the last Wednesday of December, account with and pay over to the treasurer of the Commonwealth all fees received by him, and shall receive from said treasurer the sum of three thousand dollars annually as his salary, to be paid to him quarterly, and at the same rate for any part of a quarter.

Fees, and disposition thereof.

Salary of clerk.

Law cases to be entered by clerk.

SECTION 44. The clerk shall enter all cases transmitted to him that become questions of law at the same term in each county, in their order, in the court from which they came, in the order of time, as nearly as may be, of the final adjournment of the terms at which the questions arise; and if any special proceedings shall come before the supreme judicial court from any court requiring entry, the clerk shall enter the same, with the questions from such county, which shall be entered nearest the day of the inception of such proceeding, and all entries shall be made forthwith upon receipt of the papers.

Arguments, when to be made.

SECTION 45. All questions of law shall be in order for argument within five days after their entry upon the docket

of the law court, and shall be argued when reached, in their order, by either party who is ready to argue the same, unless the court, for good cause shown, shall postpone the argument of such question.

SECTION 46. At any time five days after the entry thereof, all criminal cases shall be in order for argument on such day in every month as the court may designate, at which time all such cases shall have precedence; and the argument thereof shall be continued till such cases are disposed of; and no such case shall be postponed except for special cause shown. Precedence of criminal cases.

SECTION 47. The court may hear any cause *ex parte*, when a question is reached in the order of the docket and only one party is ready for argument; or if neither party is ready for argument, a rescript may at once be sent down for the entry of neither party, or the case may be postponed for special reasons assigned therefor; but no case that has been postponed shall be again in order for argument until all the questions ready for argument shall have been argued, postponed or otherwise disposed of. Ex parte arguments.

SECTION 48. The supreme judicial court shall, as soon as may be after the decision of the questions submitted to them, send down such order, direction, judgment or decree, as may be fit and proper for the further disposition of the cause, by a rescript which shall also contain a brief statement of the grounds and reason of the decision announced, and such rescript shall be filed in the case. And if no further report of the decision is written out within sixty days from the date of such rescript, the reporter of decisions shall report the case, with the opinion contained in such rescript. Rescript and opinion.

SECTION 49. The supreme judicial court shall have power and authority under this act, in addition to the power and authority they now possess, to make all needful rules and regulations for the dispatch of the business of the court, and to frame a code of rules for proceedings in equity, to simplify the proceedings, to discourage delays, and to lessen the expenses and burdens of litigation, and to expedite the decision of causes. Rules of the court to be made.

SECTION 50. The justices of the supreme judicial court shall, from time to time, by arrangement among themselves, designate some one of their number whose duty it shall be to attend at some convenient place in Boston, at all convenient times, for the purpose of hearing matters in equity cognizable by a single justice, and that will tend to a speedy hearing and decision of equity causes. And he may by his rescript make all proper and lawful decrees and orders, in Justice S. J. C. to be designated for cases in equity. Powers of same.

any equity suit in any county. And the original papers, in any suit in equity, may be taken from the files in any county by the counsel of record of either party, for use before the supreme judicial court, or any justice thereof, upon leaving a memorandum and receipt on such files, containing a short description of the papers so taken: *provided*, that nothing herein contained shall prevent any justice of the supreme judicial court, except in the county of Suffolk, from issuing injunctions as he may now do by law.

Proviso.

Equity judge to hear questions of law.

SECTION 51. The justice, while so designated, shall sit in the hearing of all questions of law coming before a majority of the court in equity cases.

Rotation in equity duties.

SECTION 52. No justice shall be designated to perform the duties mentioned in the two preceding sections for more than six months at any one time.

Cases now on law docket, how disposed of.

SECTION 53. All cases undisposed of upon the law docket of the supreme judicial court for the several counties, on the day on which this act takes full effect, shall be entered upon the law docket of said court, for the Commonwealth, and shall be first in order upon said docket, and the questions shall be transferred and the papers and copies transmitted, as herein provided, to the law docket of the court of law, and shall be entered by the clerk of said court in the order of the counties, in the order they now stand; and the further proceedings shall be according to the provisions of this act. And said court may hold a special session at such time, before the first day of January next, as the justices thereof may think expedient, for the hearing of such questions. And all appeals in equity shall be entered on a separate docket in said law court in Boston.

Special session.

Precedence of certain causes.

SECTION 54. At any term of the superior court wherein criminal business might be transacted, causes arising under the provisions of an act entitled "An Act to protect the rights and liberties of the people of the Commonwealth of Massachusetts," and under the provisions of an act entitled "An Act for the suppression of certain common nuisances," and under the provisions of an act entitled "An Act concerning the manufacture and sale of spirituous and intoxicating liquors," and the several acts in addition to each of said acts, shall have precedence in the order said acts are herein named, next after the causes of persons actually confined in prison and awaiting trial.

Repealing section.

SECTION 55. All laws and resolves establishing the court of common pleas, the superior court of the county of Suffolk or the municipal court of the city of Boston, or giving jurisdiction to said courts, except so far as may be necessary

that the same should be supported for the purposes of this act, and all laws establishing the terms of the supreme judicial court, except as herein provided, are hereby repealed from the day this act shall take full effect. And if upon said day any term of either of said courts shall be in session, or shall have been adjourned to a future day, the remainder of said term may be held by a justice of the superior court.

SECTION 56. Terms of the supreme judicial court shall be held by a single judge every year at the times and places following, viz.: For the county of Barnstable and Dukes county, at Barnstable, on the first Tuesday of May: For the county of Berkshire, at Lenox, on the second Tuesday of May: For the county of Bristol, in alternate years at New Bedford and Taunton, beginning at New Bedford on the second Tuesday of November: For the county of Essex, at Salem, on the first Tuesday of May: For the county of Franklin, at Greenfield, on the second Tuesday of September: For the county of Hampden, at Springfield, on the fourth Tuesday of April: For the county of Hampshire, at Northampton, on the third Tuesday of April: For the county of Middlesex, at Lowell, on the first Tuesday of May: For the county of Nantucket, at Nantucket, on the first Tuesday of July: For the county of Norfolk, at Dedham, on the third Tuesday of February: For the county of Plymouth, at Plymouth, on the second Tuesday of July, except in the year eighteen hundred and fifty-nine: For the county of Suffolk, at Boston, on the first Tuesdays of October and April: For the county of Worcester, at Worcester, on the fourth Tuesday of June.

Terms of supreme
judicial court,
when to be held.

And all processes except civil actions wherein the property sought to be recovered or the damage claimed in any county except Suffolk, exceeds one thousand dollars, or in Suffolk, exceeds four thousand dollars, and all appeals which shall have been made returnable at any of the terms of the supreme judicial court, as now established by law, shall be returned to and have day in the terms of said court for the proper county, as prescribed by this act.

SECTION 57. The clerk and assistant-clerk of the supreme court for the county of Suffolk shall continue to hold their respective offices, and their places shall be filled by election as now provided by law.

Clerk and assist-
ant-clerk for
county of Suffolk.

SECTION 58. Sections twenty-six, twenty-seven, twenty-eight, thirty-two, thirty-three and thirty-four of this act, shall apply to the supreme judicial court as well as the superior court, so far as the same may be applicable.

Certain sections
of this act to ap-
ply to supreme
judicial court.

SECTION 59. This act shall take effect, so far as the appointing, commissioning and qualifying the justices of the

Act to take ef-
fect, &c.

superior court are concerned, on the tenth day of May next ; and it shall take full effect from and after the first day of July next.

Approved April 5, 1859.

Chap. 197 AN ACT IN ADDITION TO AN ACT TO INCORPORATE THE PROPRIETORS OF THE CEMETERY AT MOUNT AUBURN.

Be it enacted, &c., as follows :

Proprietors may convey to heirs, &c., of deceased persons, additional lots.

Purpose, &c.

May convey lots to other incorporated bodies.

Lots containing more than 300 square feet.

SECTION 1. The corporation known as the proprietors of the cemetery of Mount Auburn, may grant and convey to the heirs at law, devisees or trustees of any deceased person, any lot or lots, and additions to the same, in said cemetery, for the purpose of burial, or of erecting tombs, cenotaphs and other monuments in and upon the same to be held by the grantees in accordance with the provisions of section eight of the act creating said corporation.

SECTION 2. Said corporation may grant and convey to any other corporate body, its successors and assigns, any lot or lots, and additions thereto for the purposes aforesaid, which lot or lots, if containing more than three hundred square feet, may be represented by the president, treasurer, or such other officers as may be designated by such corporate body.

Approved April 6, 1859.

Chap. 198 AN ACT MAKING APPROPRIATIONS FROM THE INCOME OF SEVERAL TRUST FUNDS THEREIN MENTIONED, AND FOR OTHER PURPOSES.

Be it enacted, &c., as follows :

Appropriations authorized.

Normal schools.

Agents of the board of education.

Teachers' institutes.

SECTION 1. The sums hereinafter mentioned in this section are appropriated and shall be allowed and paid out of the moiety of the income of the school fund applicable to educational purposes, on the warrant of the governor, for the year one thousand eight hundred and fifty-nine, including also unpaid accounts of preceding years, that is to say :

For the support of the four state normal schools, in accordance with the provisions of the resolves of the year one thousand eight hundred and fifty-five, chapter forty-eight, and the resolves of one thousand eight hundred and fifty-seven, chapter eighty-five, a sum not exceeding fourteen thousand five hundred dollars.

For the support of one or more agents of the board of education, in accordance with the provisions of the resolves of the year one thousand eight hundred and fifty-seven, chapter twenty-two, a sum not exceeding four thousand dollars.

For teachers' institutes, in accordance with the acts of the year one thousand eight hundred and forty-six, chapter ninety-nine, the resolves of the year one thousand eight

hundred and fifty, chapter sixty-five, and the resolves of the year one thousand eight hundred and fifty-two, chapter two, a sum not exceeding four thousand two hundred and fifty dollars.

For the support of state scholarships, in accordance with the acts of the year one thousand eight hundred and fifty-three, chapter one hundred and ninety-three, four thousand eight hundred dollars.

State scholarships.

For aid to attendants in the state normal schools, in accordance with the resolves of the year one thousand eight hundred and fifty-three, chapter sixty-two, a sum not exceeding four thousand dollars.

Aid to attendants in State normal schools.

For the expenses of the secretary of the board of education, in accordance with the acts of the year one thousand eight hundred and forty-nine, chapter two hundred and fifteen, section third, a sum not exceeding four hundred dollars.

Secretary board of education, expenses of.

For expenses of the members of the board of education, in accordance with the acts of the year one thousand eight hundred and thirty-eight, chapter fifty-five, a sum not exceeding two hundred dollars.

Members board of education, expenses of.

For the support of certain Indian schools, in accordance with the Revised Statutes, chapter twenty-three, section sixty-eight, one hundred dollars; in accordance with the acts of the year one thousand eight hundred and thirty-eight, chapter one hundred fifty-four, one hundred and forty dollars; in accordance with the resolves of the year one thousand eight hundred and fifty-five, chapter thirty-five, one hundred and sixty-five dollars; in accordance with the resolves of the year one thousand eight hundred and fifty-six, chapter twenty-eight, one hundred and four dollars; chapter thirty-four, sixty dollars; and in accordance with a resolve of the year one thousand eight hundred and fifty-nine, fifty dollars; making in the aggregate six hundred nineteen dollars.

Indian schools.

For county associations of teachers, in accordance with the acts of the year one thousand eight hundred and forty-eight, chapter three hundred and one, a sum not exceeding seven hundred dollars.

County associations of teachers.

For the Massachusetts Teachers' Association, in accordance with the resolves of the year one thousand eight hundred and fifty-seven, chapter thirty-five, three hundred dollars; and in accordance with a resolve of the year one thousand eight hundred and fifty-nine, chapter eight, three hundred dollars.

Massachusetts Teachers' Association.

American Institute of Instruction.

For the American Institute of Instruction, in accordance with the resolves of the year one thousand eight hundred and fifty-five, chapter thirty-six, three hundred dollars.

New England Female Medical College.

For the New England Female Medical College, in accordance with the resolves of the year one thousand eight hundred and fifty-four, chapter eighty-five, one thousand dollars.

Board of education, printing, &c

For postage, printing, advertising, stationery, meteorological observations, and all other incidental expenses of the board of education, or of the secretary thereof, and also for any contingent expenses of the normal schools, not otherwise herein provided for, a sum not exceeding five thousand five hundred dollars.

Normal schools.

Secretary board of education, salary.

For the salary of the secretary of the board of education, two thousand dollars.

Assistant-secretary.

For the salary of the assistant-secretary of the board of education, one thousand five hundred dollars.

Indians' School Fund, income, how applied.

SECTION 2. The income of the Indians' school fund shall be applied according to the provisions of the acts of the year one thousand eight hundred and thirty-seven, chapter eighty-five, section seven.

Todd Normal School Fund, income.

SECTION 3. The income of the Todd Normal School Fund shall be paid to the treasurer of the board of education, to be applied in such manner as shall be prescribed by said board.

Rogers Book Fund, income.

SECTION 4. The income of the Rogers Book Fund, shall be expended in accordance with the conditions named by the donor, in conformity with chapter two hundred and fifteen of the acts of the year one thousand eight hundred and fifty-seven.

Charles River and Warren Bridges Fund, how applied.

SECTION 5. The sums mentioned in this section are appropriated, and shall be allowed and paid out of the Charles River and Warren Bridges Fund, for the year one thousand eight hundred and fifty-nine, that is to say :

Repairs.

For repairs on said bridges and the buildings belonging thereto, a sum not exceeding nine hundred dollars.

Draw-tenders.

For the compensation of the draw-tenders on said bridges, in conformity with an act of the year one thousand eight hundred and fifty-nine, entitled "An Act concerning the agent and draw-tenders of Charles River and Warren Bridges," a sum not exceeding two thousand one hundred dollars.

Horse-keeping.

For horse-keeping, a sum not exceeding three hundred dollars.

Fuel and lights

For gas, oil, fluid and fuel, a sum not exceeding six hundred dollars.

For incidental expenses, a sum not exceeding two hundred dollars. Incidentals.

SECTION 6. The sums mentioned in this section are appropriated, and shall be allowed and paid out of the moneys arising from the tolls collected on the Essex Bridge, for the year one thousand eight hundred and fifty-nine, that is to say: Essex Bridge tolls, how applied.

For the salary of the agent of said bridge, the sum of one hundred dollars. Salary of agent.

For the compensation of the toll-gatherers and draw-tenders upon said bridge, a sum not exceeding five hundred dollars. Toll-gatherers and draw-tenders.

For the repair and maintenance of said bridge, a sum not exceeding two thousand dollars. And all moneys arising from the tolls on said bridge shall be paid into the state treasury. Repairs and maintenance of bridge.

SECTION 7. In all cases for which no other provision is made by law, the income or any surplus thereof of all funds belonging to, or in the custody of the Commonwealth, shall be added to the principal. Surplus income to be added to principal fund.

SECTION 8. This act shall take effect from and after its passage.

Approved April 6, 1859.

AN ACT IN RELATION TO THE CARRYING OF DANGEROUS WEAPONS.

Chap. 199

Be it enacted, &c., as follows:

The provisions of the first section of the one hundred and ninety-fourth chapter of the acts of the year eighteen hundred and fifty, entitled "An Act in relation to the carrying of Slung Shot," shall apply to persons arrested as set forth in said act, who shall be armed with or have on their persons, metallic knuckles, billies or any other weapons of a like dangerous character, the malicious use of which would endanger life or limb.

Provisions of law applied to all articles of dangerous character.

Approved April 6, 1859.

AN ACT RELATING TO THE ATTORNEY'S FEE IN CERTAIN CRIMINAL PROSECUTIONS.

Chap. 200

Be it enacted, &c., as follows:

So much of the fifteenth section of the two hundred and fifteenth chapter of the acts of eighteen hundred and fifty-five, as provides that an attorney's fee of ten dollars, to be paid to the attorney who appears for the government, shall be taxed and allowed as part of the costs in each case where a fine is imposed under said act, is hereby repealed.

Attorney's fee not to be included in bill of costs.

Approved April 6, 1859.

AN ACT RELATING TO RETURNS OF POLICE JUSTICES.

Chap. 201

Be it enacted, &c., as follows:

SECTION 1. All justices of police courts shall make their annual returns to the secretary of the Commonwealth, in

Justices to make annual returns to secretary.

the same manner and form as justices of the peace are required to do by chapter two hundred eighty-nine of the acts of eighteen hundred and fifty-two; and the secretary shall transmit said returns, as soon as received, to the auditor, who shall examine and report upon the same to the legislature.

Secretary to
transmit same
to auditor.

Penalty.

SECTION 2. If any officer shall neglect or omit to make the returns as required by this act, he shall forfeit the sum of two hundred dollars, to be recovered by complaint in any court competent to try the same.

Approved April 6, 1859.

Chap. 202 AN ACT TO INCORPORATE THE LYNN AND BOSTON RAILROAD COMPANY.

Be it enacted, &c., as follows:

Corporators.

SECTION 1. Charles Porter, William W. Wheildon, E. B. Phillips, Henry A. Breed, John Story, Benjamin Shurtleff, Moses F. Rogers, their associates and successors, are hereby made a corporation, by the name of the Lynn and Boston Railroad Company, with authority to construct, maintain and use, by themselves or others, a railroad, with single or double tracks, switches and turnouts, in and from the town of North Chelsea to the city of Lynn, passing through a portion of the town of Saugus lying on the Salem and Boston turnpike, and through and over such streets and highways in said towns and cities, as the mayor and aldermen and selectmen thereof may respectively designate; said road commencing in the town of North Chelsea, or connecting with the Chelsea Beach, Boston and Chelsea, or other roads on said Salem and Boston turnpike, and continuing over said turnpike to the city of Lynn, and through the streets and highways of said city to the towns of Swampscott and Marblehead, and over such streets and highways in said towns as the selectmen thereof may designate; all such points of departure, location and connection to be fixed and determined by the mayor and aldermen of the city and the selectmen of the towns respectively in which the same may be; to be accepted in writing by said corporation hereby established: *provided*, that before any location is made through the streets and highways of said cities or towns, or either of them, notice thereof shall be given to the abutters thereon, and all others interested, by advertising in the nearest newspaper, or by public posting thereof in said cities or towns of the time and place when the mayor and aldermen and selectmen, respectively, will meet to locate said railroad, when any objection made thereto shall be heard and considered.

Name.

Power to con-
struct railway.

Location.

Proviso.

SECTION 2. Said corporation hereby created, may enter upon and use the tracks of the Boston and Chelsea, Chelsea Beach, and Middlesex Railroad Company, and the tracks of any other railroad hereafter to be constructed in Chelsea, or in that part of the city of Boston known as East Boston, and over such streets and highways in the city of Chelsea and Boston (East Boston) as the mayor and aldermen of said cities may designate, upon and for such rates of compensation as may be agreed upon; or in case of disagreement with either of said companies as to the mode of construction or rates of compensation, the same shall be fixed by three commissioners, to be appointed by the supreme judicial court, the expenses of said commissioners to be fixed by the appointing power, and paid by the corporation hereby created.

May use other tracks.

SECTION 3. Said railroad shall be constructed on said Salem and Boston turnpike, so far as may be practicable without detriment to other public travel, or on lands not used by said corporation on either side of the same, with authority to pass over such creeks, bays and streams as are now passed over by said turnpike, with suitable bridges to accommodate said railroad, and with such draws and passage ways therein as may be required for the ordinary navigation of such streams or bays: *provided*, that a mutual arrangement shall be made with said turnpike corporation for the use of their travelled road or any part thereof; and in case of disagreement, the whole matter of use and compensation shall be determined by three commissioners, to be appointed and paid in the manner provided in the preceding section.

Constructed on Salem and Boston turnpike.

Proviso.

SECTION 4. Said corporation shall have authority to fix, from time to time, such rates of compensation for transporting persons and property over their road as they may think expedient: *provided*, such compensation shall not exceed two and a half cents per mile for any passenger transported upon said road for more than four miles, but may send extra cars at specified rates at any time; and shall have all the powers and privileges, and be subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Rates of fare.

Proviso.

Privileges, restrictions, &c.

SECTION 5. The said road, and any extension thereof, shall be constructed and maintained in such manner and upon such grade as the mayor and aldermen of said city of Lynn and the selectmen of said towns, respectively, may in their votes fixing and determining the routes thereof, prescribe and direct; and if said railroad company shall deem it expedient to alter the grade of any street or highway,

Grade, &c.

such alteration shall be made at the sole expense of said corporation, and shall not be made, unless the same is first assented to by the mayor and aldermen of said city, or the selectmen of said towns respectively.

Repairs, &c.

SECTION 6. Said corporation shall maintain and keep in repair such portions of the streets, highways and bridges respectively, as shall be occupied by their track, and shall be liable for any loss or injury that any person may sustain by reason of carelessness, neglect or mismanagement of its agents and servants, in the construction, management or use of said railroad, and shall not incumber any portion of said streets, highways or bridges, as are not occupied by their said railroad, switches or turnouts; and in case any recovery shall be had against said city, or either of said towns, by reason of any defect, want of repair or unauthorized obstruction, said corporation shall be liable to refund the same, together with all reasonable costs and expenditures incurred in the defence of any suit or suits in which recovery shall be had.

Horse-power only.

SECTION 7. Said railroad shall be operated and used with horse-power only; and the mayor and aldermen of said city and the selectmen of said towns shall have power at all times to make all such regulations as to the rate of speed, and mode of use of the tracks, as the public convenience and safety may require, within the limits of their respective corporations.

Penalty for obstructing tracks.

SECTION 8. If any person shall wilfully or maliciously obstruct the said corporation in the use of their said railroad or tracks, or the passing of the cars or carriages of said corporation thereon, such person and all who shall be aiding or abetting therein, shall be punished by a fine not exceeding five hundred dollars, or may be imprisoned in the county jail for a period not exceeding three months.

Penalty if corporation obstruct.

SECTION 9. If said corporation, or its agents or servants, shall wilfully obstruct any street or highway, or the passing of any carriage over the same, such corporation shall be liable to a fine not exceeding five hundred dollars.

Capital \$200,000.

Shares \$100.

No shares issued under par.

SECTION 10. The capital stock of said corporation shall not exceed two hundred thousand dollars, to be divided into shares of one hundred dollars each; and no shares in the capital stock shall be issued for a less sum or amount, to be actually paid in on each, than the par value of the shares which shall be first issued.

May hold real estate, &c.

SECTION 11. Said corporation shall have power to purchase and hold such real estate within such city or either of said towns, as may be convenient or necessary, for the pur-

poses or management of said road, and may also purchase the franchise and property of said Salem and Boston Turnpike Corporation, the proprietors whereof are hereby authorized to sell and transfer the same, and may have and exercise all the rights and privileges, and be subject to all the duties, restrictions and liabilities, of the original proprietors.

Privileges, restrictions, &c.

SECTION 12. Nothing in this act contained shall be construed to prevent the authorities of said city or either of said towns, or said turnpike corporation, from entering upon and taking up any of the public streets or bridges traversed by said railroad, for the purposes for which they may now lawfully take up the same.

Power of town and city authorities not impaired

SECTION 13. Said corporation is hereby authorized and empowered to issue bonds for the purpose of constructing or equipping their road, the amount thereof not to exceed the amount of capital stock paid in, of the same kind, in the same manner and upon the same terms, conditions and restrictions, and to be approved, certified and recorded, and secured in all respects, in the same way as the Cambridge Railroad have been authorized by law to issue bonds.

Corporation may issue bonds equal to capital.

SECTION 14. Said corporation shall be deemed a railroad corporation, so far as to be subject to make such annual returns to the legislature, as are or may be required by law, but not to the other general provisions of law in relation to railroad corporations.

To make annual returns.

SECTION 15. This act shall be void, so far as relates to the right to construct said road, in either of said towns and cities, unless the same shall be accepted by the selectmen of such towns, or the mayor and aldermen of such cities, respectively; and unless said railroad shall be constructed therein, on or before the first day of November, in the year eighteen hundred and sixty; and unless the act shall be accepted by said corporation, and ten per cent. of the capital stock thereof shall be paid in within one year from the passage of this act.

Act void unless, &c.

SECTION 16. At any time after the expiration of one year from the opening for use of the tracks of said railroad in any street or road in which the same may be located, as provided by its charter, the mayor and aldermen of said cities, and the selectmen of said towns, respectively, may, by a vote of the major part thereof, determine as to so much of said track as is located within their respective limits, that the same or any part thereof, be discontinued; and thereupon the location shall be deemed to be revoked, and the tracks of said railroad shall forthwith be taken up and removed, in conformity with such vote or order of said

City and town authorities may discontinue track after expiration of one year.

Proviso.

mayor and aldermen or selectmen: *provided*, that such taking up and removal shall be at the expense of said railroad corporation.

Capital reduced to \$100,000 unless, &c.

SECTION 17. The capital of the corporation hereby created, shall be reduced to one hundred thousand dollars, if they lease their road without equipment, or unless they purchase the Salem and Boston Turnpike.

SECTION 18. This act shall take effect from and after its passage.

Approved April 6, 1859.

Chap. 203

AN ACT RELATING TO FARMERS' CLUBS.

Be it enacted, &c., as follows :

Agents to be appointed by secretary of board of agriculture.

SECTION 1. The secretary of the board of agriculture may appoint one or more suitable agents to visit various towns in this Commonwealth, under the direction of the board of agriculture, for the purpose of inquiring into the methods and wants of practical husbandry, ascertaining the adaptation of products to the circumstances of soil, climate and markets, encouraging the establishment of farmers' clubs, agricultural libraries and reading-rooms, and of disseminating useful and valuable information by means of lectures and otherwise; and it shall be the duty of such agents to make detailed reports annually in October, to the secretary of the board of agriculture.

Agents to make reports to secretary.

Privileges of clubs.

SECTION 2. Every farmers' club, properly organized by the election of officers, and holding regular meetings of its members, shall, upon application made in November of each year to the secretary of the board of agriculture, receive copies of the report of said board and of its other publications in proportion to the number of its members, and of the applications so made; and said farmers' clubs, receiving such benefits from the State, shall, annually in October, make returns to the secretary of the board of agriculture, of the reports of committees, and of agricultural experiments made by such clubs.

Appropriation for purposes of this act.

SECTION 3. A sum not exceeding two thousand dollars is hereby placed at the disposal of the secretary of the board of agriculture to carry out the provisions of this act.

Approved April 6, 1859.

Chap. 204

AN ACT TO INCORPORATE THE BOSTON AND SOUTHERN STEAMSHIP COMPANY.

Be it enacted, &c., as follows :

Corporators.

SECTION 1. James C. Converse, George C. Richardson, Nathaniel Harris, Edward S. Tobey, Ezra Farnsworth, their associates and successors, are hereby made a corporation by

the name of Boston and Southern Steamship Company, for the purpose of navigating the ocean by steam ; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

SECTION 2. The said company are hereby authorized to build, purchase, hold and convey one or more steamships, and may therewith navigate the ocean between Boston, Massachusetts, and Charleston, in the state of South Carolina, and Savannah, in the state of Georgia, either or all in any order of succession ; and may enter into such contracts with other persons as they may deem expedient, to run steamships between such ports.

SECTION 3. The said company may hold personal property to an amount not exceeding four hundred thousand dollars.

SECTION 4. The number of shares into which the capital stock of said company shall be divided, and the amount of each share, shall be fixed by the by-laws ; and the said company shall have power to assess, from time to time, upon such shares such sums of money as may be deemed necessary to accomplish the object of said company ; but no share shall be assessed for a greater sum or sums in the aggregate, than the amount of such shares, so determined and fixed as aforesaid.

SECTION 5. If the said corporation shall not within one year from the passage of this act, have been organized and have laid and collected an assessment or assessments to the amount of ten per cent. upon the capital stock, and shall not within three years from the passage of this act, have placed on the aforesaid route at least two steamships for the purposes of said company, and shall not use the same for the purposes in this act expressed, then this act shall become null and void.

SECTION 6. No shares in the capital stock of said corporation shall be issued for a less sum or amount than the par value of the shares first issued.

SECTION 7. This act shall take effect from and after its passage.

Approved April 6, 1859.

AN ACT CONCERNING THE MIDDLESEX RAILROAD COMPANY.

Be it enacted, &c., as follows :

SECTION 1. The mayor and aldermen of the city of Boston are hereby authorized to extend the location of the tracks of the Middlesex Railroad Company upon and over such streets within said city, as may be determined by them, with the assent, in writing, of said company ; and the Middlesex

Name.
Purpose.

Powers, &c

Personal estate,
\$400,000.

Number of shares
of capital stock
to be fixed by by-
laws, &c.

Act void unless
company organ-
ize, &c., within
one year.

No shares issued
under par.

Chap. 205

City authorities
of Boston autho-
rized to extend
tracks, &c.

Privileges, restrictions, &c.

Proviso.

Railroad Company are hereby authorized to construct, maintain and use, such tracks as may be located as above; with the same powers and privileges, and subject to the same duties, liabilities and restrictions, in relation thereto, as if they had been authorized to be located by the act by which said company was incorporated: *provided*, that said location shall be made and said tracks constructed within two years from the passage of this act.

SECTION 2. This act shall take effect from and after its passage.

Approved April 6, 1859.

Chap. 206

AN ACT IN ADDITION TO AN ACT TO PUNISH FRAUD BY THE SALE OF ADULTERATED MILK, AND TO PROVIDE FOR SEALING MEASURES USED IN THE SALE OF MILK.

Be it enacted, §c., as follows:

Inspectors to be appointed.

Powers and duties.

Dealers to be registered.

Penalties.

Inspectors to be sworn, and publish their appointment.

SECTION 1. The mayor and aldermen of the several cities in this Commonwealth shall, and the selectmen of the several towns may, annually appoint one or more inspectors of milk, whose duty it shall be to prosecute all violations of the law against the adulteration of milk, and who shall have power to enter all places where milk is stored or kept for sale, and whenever he has reason to believe the same in any way adulterated, he shall take specimens of the same and cause them to be analyzed or otherwise satisfactorily tested, the result of which he shall preserve as evidence against the parties complained of.

SECTION 2. Said inspectors shall keep an office and books, for the purpose of recording the names and places of business of all persons engaged in the sale of milk within their respective limits; and any person who shall presume to engage in the business of selling of milk without first causing his name and place of business to be recorded upon the books of the inspector of milk, and his name legibly placed upon all carriages used by him in the conveyance of milk, shall be subject to the same penalties as if convicted of the adulteration of milk, as provided in the two hundred and twenty-second chapter of the acts of the year eighteen hundred and fifty-six.

SECTION 3. Inspectors appointed pursuant to the provisions of section first of this act, shall, before entering upon the duties of their office, be sworn to the faithful enforcement of the provisions of this act, and shall also give public notice of their appointment, by publishing the same two weeks in some newspaper published in the city or town in which they hold their place of business, and if no newspaper is published in such town, by posting in public and

conspicuous places in said town, two or more such notices; and they shall receive such compensation for their services as the mayor and aldermen of the several cities, and the selectmen of the several towns, shall determine. Compensation.

SECTION 4. Milk shall be bought and sold by wine measure. All persons engaged in the sale of milk shall annually, in the month of May, cause to be sealed by the sealer of weights and measures in their respective cities and towns, all vessels used by them in the sale or buying at wholesale of milk, by wine measure; and all cans used in the sale of milk shall be sealed by said sealer of weights and measures at a price not exceeding two cents each at the amount which they severally hold by wine measure; and any person who shall fail to comply with the provisions of the law requiring all measures to be sealed, or shall sell or buy at wholesale milk by any other measure than wine measure, or shall sell adulterated or unwholesome milk, shall be held guilty of a misdemeanor, and upon conviction thereof, by a court of competent jurisdiction, shall forfeit to the use of the complainant a sum not exceeding twenty dollars. Regulations of measure.

All vessels to be sealed.

Penalties.

SECTION 5. No person shall offer for sale in this Commonwealth, milk produced from cows fed upon the refuse of breweries or distilleries, or any other substance which may be deleterious to the quality of the milk, under a penalty of ten dollars for each offence. Refuse feed milk prohibited.

Penalty.

Approved April 6, 1859.

AN ACT TO ABOLISH THE OFFICE OF CRIER OF THE COURTS.

Be it enacted, &c., as follows:

SECTION 1. The office of crier of courts is hereby abolished. Chap. 207
Office abolished.

SECTION 2. The duties heretofore performed by criers of courts shall hereafter be performed by the clerks or assistant-clerks of the counties, or by the sheriffs or their deputies, as the court may direct, without any additional compensation to that now allowed to them by law. Duty to be performed by other officer.

SECTION 3. Any officer of the court may adjourn the court by order of the court. Court adjourned by any officer.

Approved April 6, 1859.

AN ACT TO INCORPORATE THE TRUSTEES OF THE MUSEUM OF COMPARATIVE ZOOLOGY.

Be it enacted, &c., as follows:

SECTION 1. The governor, the lieutenant-governor, the president of the senate, the speaker of the house of representatives, the secretary of the board of education, the chief justice of the highest judicial court, *ex officio*, and Louis Agassiz and William Gray, together with Jacob Bigelow, James Walker, George Ticknor, Nathaniel Thayer, Chap. 208
Corporators.

Title. Samuel Hooper, Samuel G. Ward and James Lawrence, and their successors, are hereby made a body politic and corporate, by the name of the "Trustees of the Museum of Comparative Zoology," with all the powers and privileges set forth in the forty-fourth chapter of the Revised Statutes, so far as the same are applicable to the purposes for which said corporation is established, as hereinafter mentioned, and not inconsistent with the provisions of this act.

Power to hold property. SECTION 2. Said corporation may receive, hold, purchase and possess real and personal property not exceeding three hundred thousand dollars in value, to be used and improved Value. for the erection, support and maintenance of a Museum of Purpose and location. Comparative Zoology, at Cambridge, in this Commonwealth; Endowment of William Gray. and the sum of fifty-thousand dollars, heretofore contributed Condition of aid. in aid of the Museum of Comparative Zoology, by William Gray, shall be deemed to be part of the sum required to be raised by private subscription for the said Museum as a condition precedent to the payment by the Commonwealth to said trustees of any part of the avails of the sales of land in the Back Bay.

Certain vacancies, how to be filled. SECTION 3. The places of Louis Agassiz and William Gray, whenever the same or either of them shall become vacant by death, resignation or otherwise, shall be filled by a concurrent vote of the senate and house of representatives; and the same course shall be afterwards adopted, when the place of the successor of either of them shall become vacant; but any vacancy occasioned by the death, resignation or otherwise of any of the other persons named in this act, (except the members designated *ex officio*;) or of the successors of such persons, shall be filled, by election, by the whole board of trustees, at meetings specially called for that purpose.

Duties of trustees. SECTION 4. The said trustees shall arrange, so far as may be done, consistently with the interests of the institution, for the distribution of duplicate specimens, by exchange or otherwise, among other colleges and institutions of learning in this Commonwealth and elsewhere. And the Museum Museum to be free for public inspection. belonging to said trustees shall, at all reasonable times and under reasonable regulations, be kept open to the public free of charge.

SECTION 5. This act shall take effect from and after its passage.

Approved April 6, 1859.

Chap. 209 AN ACT CONCERNING THE DELIVERY OF FREIGHT TO CONNECTING RAILROADS.

Be it enacted, &c., as follows :

Railroads to forward goods to other connected roads. SECTION 1. Every railroad corporation shall promptly forward merchandise consigned, ordered or directed to be sent over another road connecting therewith, according to the

directions contained thereon or accompanying the same. And no railroad corporation shall receive and forward over its road any merchandise, consigned, ordered or expressly directed, to be received and forwarded by a different route. Restriction.

SECTION 2. Every railroad corporation which shall willfully violate the provisions of this act, shall forfeit for each offence, the sum of one hundred dollars, to be recovered by action of tort by any person or corporation injuriously affected thereby: *provided*, the freight or expense of carriage of such merchandise be paid or secured to the forwarding road. Penalty.

Approved April 6, 1859.

AN ACT IN RELATION TO THE BACK BAY AND THE PUBLIC GARDEN IN
THE CITY OF BOSTON. Chap. 210

Be it enacted, &c., as follows:

SECTION 1. The boundary line between the cities of Boston and Roxbury is hereby altered and established as follows: Beginning at a point where the present boundary line between the two cities intersects the easterly side of Avenue Number VI., as laid down on the plan accompanying the third annual report of the commissioners on Boston Harbor and Back Bay, dated October thirty, eighteen hundred and fifty-four, thence running by the said easterly side of said Avenue Number VI., to the present boundary line near the mill-dam; and all that portion of land, flats or channels, easterly of the line hereby established, is hereby annexed to and made a part of said city of Boston in the county of Suffolk, and shall constitute a part of ward nine, until a new division of the wards: *provided*, that this act shall not affect the present apportionment for the choice of senators and representatives to the general court, and of councillor. Boundary between Boston and Roxbury altered and established.

SECTION 2. If there shall be within the limits of the territory hereby annexed to the city of Boston, any portion which is owned by the city of Roxbury, the city of Boston shall not assess any taxes on such portion owned by Roxbury, so long as it is so owned. Proviso.

SECTION 3. The commissioners on the Back Bay are hereby authorized and required to fill up and complete, at the expense of the Commonwealth, so much of the street next west of the public garden called Arlington Street, as remains to be completed at the time of the passage of this act, so that the said street shall be of the full width of eighty feet; and also the strip of land easterly of said street, which was released by the Commonwealth to the city of Boston, by indenture dated December eleventh, eighteen hundred and fifty-six; and no building shall hereafter be erected between Boston not to tax any portion owned by Roxbury.

Back Bay commissioners to fill up certain lands.

Restriction.

Proviso.

Arlington and Charles Streets, except such as are expedient for horticultural purposes: *provided*, that nothing herein contained shall render it unlawful to erect a city hall on the public garden.

Commissioners of award to be appointed.

SECTION 4. For the purpose of determining a just equivalent to the city of Boston, for the relinquishment hereby made of any rights the said city may now have to erect buildings on the strip of land on Arlington Street, which was conveyed to the city by the said indenture of December eleventh, eighteen hundred and fifty-six, the governor of the Commonwealth and the mayor of said city shall appoint three commissioners, who shall make an award thereon; and the Commonwealth shall convey to the city of Boston such portion of the land or flats in the Back Bay, belonging to the Commonwealth, and upon such limitations and restrictions as the said commissioners shall order and direct, in said award, as such equal equivalent; and if such commissioners shall not be appointed within thirty days after this act shall take effect, the supreme judicial court, upon the representation of either party, and upon notice to the other, shall appoint such commissioners.

Supreme judicial court to appoint, in case, &c.

Sewer to be constructed.

SECTION 5. The commissioners on the Back Bay are authorized and required to construct all that part of the main sewer, extending from Tremont Street in Boston to Charles River, which is to be built by the Commonwealth, in accordance with the tripartite indenture between the Commonwealth and the city of Boston and the Boston Water-Power Company, dated December eleventh, eighteen hundred and fifty-six.

Act to be accepted by legal voters of Boston.

SECTION 6. The board of aldermen of the city of Boston shall notify and warn the legal voters of the said city to meet in their respective wards on some day within thirty days from the date of the passage of this act, for the purpose of giving their votes "yes" or "no" in answer to the question, "Are you in favor of accepting an act of the legislature of eighteen hundred and fifty-nine, entitled 'An Act in relation to the Back Bay and the Public Garden in the city of Boston:'" and the votes shall be received, sorted and counted, and declaration made thereof in the same manner as votes at other elections; and the mayor and aldermen shall transmit to the secretary of the Commonwealth, within seven days after said meetings, a true return of the votes in the affirmative and negative: and if it shall appear that a majority of the votes are in favor of the acceptance of this act, then it shall be considered as binding in all its provisions, alike upon the Commonwealth of Massachusetts and the city of Boston, and

shall have full force and effect: but if a majority of the votes are against the acceptance of this act, then it shall be null and void, and the secretary shall give public notice accordingly.

SECTION 7. The preceding section, authorizing and directing the submission of this act to the legal voters of Boston, shall take effect from and after the passage of this act.

Approved April 6, 1859.

AN ACT CONCERNING FANEUIL HALL MARKET, IN BOSTON.

Be it enacted, &c., as follows:

SECTION 1. The city of Boston shall make no by-law, ordinance or regulation, excluding from the occupation of street stands within the limits of Faneuil Hall Market, in said city, as the same are, or may be defined in the city ordinances, for the sale of fresh provisions and perishable produce, any persons taking such stand for the sole purpose of selling such fresh provisions or perishable produce, provided the same are the product of the farm of the person offering them for sale, or of some farm within ten miles of the residence of such person; or are to be sold at wholesale only, by the party offering the same for sale on commission, for, or as agent for some person or persons not residing or having a usual place of business within eight miles of said market; or are meats to be sold at wholesale only, by the person who slaughtered the animals of which the same was a part.

Provisions and produce to be sold on street stands around Faneuil Hall Market, under certain restrictions.

SECTION 2. The said city shall make no by-law, ordinance or regulation, prohibiting the occupation of stands within said limits, and the sale of fresh provisions and perishable produce, by the persons herein before mentioned, between the hours of four o'clock in the afternoon and the time of closing said market at night, or before ten o'clock in the forenoon, except on Sunday and holidays.

No prohibition by city of Boston during certain hours of the day, except, &c.

SECTION 3. Any existing by-laws, ordinances or regulations inconsistent herewith are hereby repealed; but this act shall not be construed to repeal or prevent reasonable rules of police, needful for the decorum, convenience and good order of the market, and those who buy and sell therein.

Repeal except, &c.

Approved April 6, 1859.

AN ACT IN ADDITION TO THE ACT TO CHANGE THE ORGANIZATION OF THE BOARD OF OVERSEERS OF THE UNIVERSITY AT CAMBRIDGE.

Be it enacted, &c., as follows:

SECTION 1. All elections to fill vacancies in the board of overseers of Harvard college, shall hereafter be by concurrent vote of the two branches of the general court.

Vacancies to be filled by legislature.

Chap. 211

Chap. 212

Outgoing mem-
bers to remain
in office two
months.

SECTION 2. The members of said board of each of the outgoing classes, shall continue in office for two months after the day of the annual meeting of the general court, notwithstanding that their successors may have been sooner chosen.

Act to be accept-
ed.

SECTION 3. This act shall be in force when the board of overseers and the president and fellows of Harvard college, respectively, at meetings held for that purpose, prior to the first day of February next, shall by vote have assented to the same: *provided*, that nothing herein contained shall be deemed to prejudice any constitutional powers which may be possessed by the general court.

Approved April 6, 1859.

Proviso.

Chap. 213 AN ACT IN ADDITION TO "AN ACT TO ESTABLISH THE CITY OF LYNN."
Be it enacted, &c., as follows:

Board of assess-
ors, how consti-
tuted and elect-
ed.

SECTION 1. The board of assessors shall consist of three persons, to be selected from the city at large, and shall be elected by the qualified voters, at their annual meeting held in their respective wards, in the manner following, to wit: on the second Monday of December, in the year one thousand eight hundred and fifty-nine, there shall be elected one person who shall hold the office of assessor for one year, one for two years, and one for three years; and there shall be elected on the second Monday of December of each year thereafter, one person who shall hold the office of assessor for three years; and the said voters of each ward shall at the same time elect, by ballot, one person residing in their said ward, as an assistant-assessor, to aid said board in the valuation of property in their respective wards, who shall hold the office of assistant-assessor for one year.

Assistant-assess-
ors.

Chairman over-
seers of poor.

SECTION 2. The mayor shall be, *ex officio*, chairman of the overseers of the poor of said city.

Repeal.

SECTION 3. All acts and parts of acts in relation to said city, which are inconsistent with the provisions of this act, are hereby repealed.

Act to be void
unless accepted
by legal voters.

SECTION 4. This act shall not go into operation until a majority of the citizens voting thereon by yea and nay, and by ballot, shall accept the same at meetings held simultaneously in the several wards, upon notice duly given, at least seven days before the time of said meetings, and within sixty days after the passage of this act, at which meetings the polls shall be kept open at least six hours, and the check lists shall be used as at the election of state and city officers; and if this act shall be so accepted, it shall take effect from and after its acceptance as aforesaid. *Approved April 6, 1859.*

AN ACT IN ADDITION TO AN ACT TO ESTABLISH THE STATE INDUSTRIAL SCHOOL FOR GIRLS.

Chap. 214

Be it enacted, &c., as follows :

SECTION 1. The trustees of the state industrial school for girls are hereby authorized and empowered to expend any sums of money donated or bequeathed to them for the purpose, in erecting one or more houses or other buildings, upon the lands of the Commonwealth, at Lancaster, for the purpose of increasing the accommodations of said school: *provided, however*, that plans of such proposed buildings shall first be submitted to and approved by the governor and council; and *provided, further*, that the whole number of houses to be erected on the grounds of the institution shall not exceed six.

Trustees authorized to erect additional buildings with certain funds.

Proviso.

SECTION 2. This act shall take effect from and after its passage.

Approved April 6, 1859.

AN ACT RELATIVE TO CORONERS' AND FIRE INQUESTS.

Chap. 215

Be it enacted, &c., as follows :

No coroner's inquest or fire inquest shall be held, unless the coroner or justice shall be first authorized in writing to hold the same; either by the attorney-general of the Commonwealth, the attorney of the district, the mayor or chief of police of the city, or the selectmen of the town in which a fire shall occur or a dead body shall be found: and such written authority shall be annexed to the return in the case.

Inquests prohibited unless authorized in writing.

Approved April 6, 1859.

AN ACT FIXING THE SALARIES OF DISTRICT-ATTORNEYS.

Chap. 216

Be it enacted, &c., as follows :

SECTION 1. Annual salaries shall be paid out of the treasury, to the district-attorneys for the several districts as follows: For the northern, eastern, southern, middle, south-eastern and western districts, twelve hundred dollars each; and for the north-western district one thousand dollars.

Salaries established.

SECTION 2. This act shall take effect on the first day of January in the year eighteen hundred and sixty.

Approved April 6, 1859.

AN ACT TO AUTHORIZE THE TOWN OF BRIGHTON TO PAY CERTAIN PERSONS FOR TENDING DRAW-BRIDGES.

Chap. 217

Be it enacted, &c., as follows :

The inhabitants of the town of Brighton are hereby authorized to pay any expenses which have been incurred by certain persons of said town, for tending the draw-bridges, and keeping in repair the road leading from Cambridge to Watertown, known as the Cambridge and Watertown turnpike, for the past two years.

Cambridge and Watertown turnpike.

Approved April 6, 1859.

Chap. 218 AN ACT TO AMEND THE SIXTY-NINTH AND THE ONE HUNDRED AND SIXTY-FIFTH CHAPTERS OF THE ACTS OF THE YEAR EIGHTEEN HUNDRED AND FIFTY-EIGHT.

Be it enacted, &c., as follows :

Mouthly bank re- SECTION 1. The first section of the sixty-ninth chapter
turns. of the acts of the year eighteen hundred and fifty-eight,
Chap. 69, 1858, entitled “An Act to increase the amount of Specie in the
amended. Commonwealth,” is hereby amended by striking out the
words “not bearing interest,” and inserting in the place
thereof, the words “payable on demand.”

Chap. 165, 1858, SECTION 2. The one hundred and sixty-fifth chapter of
amended. the acts of the year eighteen hundred and fifty-eight, is
hereby amended by striking out the words “not bearing
interest,” and inserting in place thereof, the words “payable
on demand.”

SECTION 3. This act shall take effect from and after its
passage.

Approved April 6, 1859.

Chap. 219 AN ACT RELATING TO BILLIARD ROOMS AND BOWLING ALLEYS.

Be it enacted, &c., as follows :

Costs of prosecu- SECTION 1. The second section of the four hundred and
tion added to pe- twenty-ninth chapter of the acts passed in the year one
nalty. thousand eight hundred and fifty-five, is hereby so far
amended as to include in addition to the penalty therein
prescribed, the costs of prosecution.

SECTION 2. This act shall take effect upon its passage.

Approved April 6, 1859.

Chap. 220 AN ACT TO APPORTION AND ASSESS A TAX OF TWO HUNDRED NINETY-NINE THOUSAND, NINE HUNDRED AND NINETY-FOUR DOLLARS.

Be it enacted, &c., as follows :

Cities and towns SECTION 1. Each town and city in this Commonwealth
to be assessed. shall be assessed and pay the several sums with which they
stand respectively charged in the following schedule ; that
is to say :

SUFFOLK COUNTY.

Boston, . . .	Ninety-eight thousand six hundred ninety-four dollars, ...	\$98,694 00
Chelsea, . . .	One thousand seven hundred sixty-one-dollars, ...	1,761 00
North Chelsea, .	Three hundred ninety dollars, ...	390 00
		\$100,845 00

ESSEX COUNTY.

Amesbury, . . .	Five hundred seventy-six dollars, . . .	\$576 00
Andover, . . .	One thousand six hundred eleven dollars,	1,611 00
Beverly, . . .	One thousand one hundred fifty-five dol- lars, ...	1,155 00
Boxford, . . .	Two hundred seventy-nine dollars, . . .	279 00
Bradford, . . .	Two hundred four dollars, ...	204 00
Danvers, . . .	One thousand seven hundred forty-nine dollars, ...	1,749 00
Essex, ...	Three hundred thirty-six dollars, . . .	336 00
Georgetown, . .	Three hundred ninety-three dollars, . .	393 00
Gloucester, . .	One thousand three hundred twenty-six dollars, ...	1,326 00
Groveland, . . .	Two hundred twenty-two dollars, . . .	222 00
Hamilton, . . .	Two hundred thirty-one dollars, . . .	231 00
Haverhill, . . .	One thousand two hundred fifteen dollars,	1,215 00
Ipswich, ...	Five hundred seventy-three dollars, . .	573 00
Lawrence, . . .	Two thousand nine hundred seventy-six- dollars, ...	2,976 00
Lynn, ...	Two thousand three hundred nineteen dollars, ...	2,319 00
Lynnfield, . . .	One hundred eighty-six dollars, ...	186 00
Manchester, . . .	Two hundred eighty-two dollars, . . .	282 00
Marblehead, . .	One thousand one hundred seven dollars,	1,107 00
Methuen, ...	Five hundred sixty-one dollars, ...	561 00
Middleton, . . .	One hundred fifty-nine dollars, ...	159 00
Newbury, ...	Three hundred forty-eight dollars, . . .	348 00
Newburyport, . .	Two thousand seven hundred ninety dollars, ...	2,790 00
Rockport, ...	Four hundred eleven dollars, ...	411 00
Rowley, ...	Two hundred forty-three dollars, . . .	243 00
Salem, ...	Six thousand six hundred seventy-two dollars, ...	6,672 00
Salisbury, . . .	Five hundred fifty-two dollars, ...	552 00

ESSEX COUNTY—CONTINUED.

Saugus, . . .	Two hundred seventy-three dollars, . .	\$273 00
Topsfield, . . .	Two hundred fifty-two dollars, ...	252 00
Wenham, . . .	Two hundred four dollars, ...	204 00
West Newbury,	Three hundred eighteen dollars, . . .	318 00
		\$29,523 00

MIDDLESEX COUNTY.

Acton, ...	Two hundred ninety-seven dollars, . .	\$297 00
Ashby, ...	Three hundred six dollars, ...	306 00
Ashland, . . .	Two hundred thirty-four dollars, . . .	234 00
Bedford, . . .	One hundred ninety-two dollars, . . .	192 00
Billerica, . . .	Four hundred forty-one dollars, ...	441 00
Boxborough, . .	One hundred twenty-three dollars, . . .	123 00
Brighton, . . .	Eight hundred sixteen dollars, ...	816 00
Burlington, . .	One hundred fifty dollars, ...	150 00
Cambridge, . . .	Five thousand one hundred ninety-six dollars, ...	5,196 00
Carlisle, ...	One hundred sixty-eight dollars, . . .	168 00
Charlestown, . .	Four thousand three hundred ninety-eight dollars, ...	4,398 00
Chelmsford, . . .	Five hundred one dollars, ...	501 00
Concord, ...	Six hundred forty-two dollars, ...	642 00
Dracut, ...	Three hundred seventy-two dollars, . .	372 00
Dunstable, . . .	One hundred eighty-three dollars, . . .	183 00
Frammingham, . .	Nine hundred eighty-four dollars, . . .	984 00
Groton, ...	Seven hundred twenty dollars, ...	720 00
Holliston, . . .	Four hundred fifty-nine dollars, ...	459 00
Hopkinton, . . .	Five hundred ten dollars, ...	510 00

MIDDLESEX COUNTY—CONTINUED.

Lexington, . .	Five hundred ninety-seven dollars, . . .	\$597 00
Lincoln, . . .	Two hundred forty dollars, ...	240 00
Littleton, . . .	Two hundred forty-six dollars, ...	246 00
Lowell, . . .	Eight thousand six hundred sixteen dollars,	8,616 00
Malden, . . .	Nine hundred dollars, ...	900 00
Marlborough, .	Six hundred forty-two dollars, ...	642 00
Medford, . . .	One thousand two hundred eighteen dol- lars, ...	1,218 00
Melrose, . . .	Two hundred seventy dollars, ...	270 00
Natick, . . .	Five hundred twenty-eight dollars, . . .	528 00
Newton, . . .	One thousand five hundred eighty-seven dollars, ...	1,587 00
Pepperell, . .	Three hundred ninety-six dollars, . . .	396 00
Reading, . . .	Six hundred six dollars, ...	606 00
Sherborn, . . .	Two hundred seventy dollars, ...	270 00
Shirley, . . .	Two hundred ninety-four dollars, . . .	294 00
Somerville, . .	One thousand thirty-five dollars, . . .	1,035 00
S. Reading, . .	Four hundred twenty-three dollars, . .	423 00
Stoneham, . . .	Three hundred three dollars, ...	303 00
Stow, ...	Three hundred twenty-seven dollars, . .	327 00
Sudbury, . . .	Four hundred sixty-five dollars, ...	465 00
Tewksbury, . .	Three hundred eighteen dollars, ...	318 00
Townsend, . . .	Four hundred fifty dollars, ...	450 00
Tyngsborough, .	Two hundred forty-six dollars, ...	246 00
Waltham, . . .	One thousand three hundred ninety-five dollars, ...	1,395 00
Watertown, . .	One thousand one hundred forty-six dol- lars, ...	1,146 00
Wayland, . . .	Two hundred fifty-eight dollars, ...	258 00
W. Cambridge, .	Eight hundred twenty-five dollars, . . .	825 00

MIDDLESEX COUNTY—CONTINUED.

Westford, . . .	Four hundred fourteen dollars, ...	\$414 00
Weston, . . .	Three hundred sixty dollars, ...	360 00
Wilmington, . .	Two hundred ten dollars, ...	210 00
Winchester, . .	Three hundred forty-two dollars, . . .	342 00
Woburn, . . .	One thousand eight dollars, ...	1,008 00
		\$42,627 00

WORCESTER COUNTY.

Ashburnham, .	Three hundred seventy-five dollars, . .	\$375 00
Athol, . . .	Three hundred sixty-nine dollars, . . .	369 00
Auburn, . . .	Two hundred sixteen dollars, ...	216 00
Barre, . . .	Seven hundred forty-one dollars, . . .	741 00
Berlin, . . .	One hundred fifty dollars, ...	150 00
Blackstone, . .	Nine hundred thirty-six dollars, ...	936 00
Bolton, . . .	Two hundred seventy-nine dollars, . . .	279 00
Boylston, . . .	Two hundred thirty-four dollars, . . .	234 00
Brookfield, . .	Three hundred forty-eight dollars, . . .	348 00
Charlton, . . .	Four hundred ninety-eight dollars, . . .	498 00
Clinton, . . .	Four hundred eighty-nine dollars, . . .	489 00
Dana, . . .	One hundred twenty-six dollars, ...	126 00
Douglas, . . .	Three hundred seventy-eight dollars, . .	378 00
Dudley, . . .	Three hundred forty-two dollars, ...	342 00
Fitchburg, . . .	One thousand ninety-five dollars, . . .	1,095 00
Gardner, . . .	Three hundred nine dollars, ...	309 00
Grafton, . . .	Seven hundred forty-seven dollars, . . .	747 00
Hardwick, . . .	Four hundred twenty-six dollars, ...	426 00

WORCESTER COUNTY—CONTINUED.

Harvard, . . .	Three hundred ninety-six dollars, . . .	\$396 00
Holden, . . .	Four hundred seventeen dollars, . . .	417 00
Hubbardston, .	Three hundred fifty-four dollars, . . .	354 00
Lancaster, . .	Three hundred fifty-four dollars, . . .	354 00
Leicester, . . .	Six hundred thirty dollars, ...	630 00
Leominster, . .	Six hundred seventy-eight dollars, . . .	678 00
Lunenburg, . .	Three hundred twenty-seven dollars, . .	327 00
Mendon, . . .	Three hundred fifty-one dollars, ...	351 00
Milford, . . .	Seven hundred twenty-nine dollars, . .	729 00
Millbury, . . .	Five hundred forty-six dollars, ...	546 00
New Braintree, .	Two hundred seventy-three dollars, . .	273 00
North Brookfield,	Three hundred sixty-six dollars, ...	366 00
Northborough, .	Three hundred thirty-six dollars, ...	336 00
Northbridge, . .	Three hundred sixty-six dollars, ...	366 00
Oakham, . . .	Two hundred twenty-eight dollars, . . .	228 00
Oxford, . . .	Five hundred sixteen dollars, ...	516 00
Paxton, . . .	One hundred sixty-five dollars, ...	165 00
Petersham, . .	Four hundred eleven dollars, ...	411 00
Phillipston, . .	One hundred ninety-eight dollars, . . .	198 00
Princeton, . . .	Three hundred twenty-seven dollars, . .	327 00
Royalston, . . .	Four hundred fourteen dollars, ...	414 00
Rutland, . . .	Two hundred seventy-three dollars, . .	273 00
Shrewsbury, . .	Four hundred twenty dollars, ...	420 00
Southborough, .	Three hundred twenty-one dollars, . . .	321 00
Southbridge, . .	Six hundred dollars, ...	600 00
Spencer, . . .	Four hundred fifty-six dollars, ...	456 00

WORCESTER COUNTY—CONTINUED.

Sterling, . . .	Four hundred twenty dollars, ...	\$120 00
Sturbridge, . .	Four hundred fifty dollars, ...	450 00
Sutton, . . .	Five hundred twenty-five dollars, . . .	525 00
Templeton, . .	Four hundred seventy-seven dollars, . .	477 00
Upton, . . .	Three hundred forty-two dollars, . . .	342 00
Uxbridge, . . .	Five hundred ninety-four dollars, . . .	594 00
Warren, . . .	Three hundred sixty-nine dollars, . . .	369 00
Webster, . . .	Four hundred thirty-eight dollars, . . .	438 00
West Boylston, .	Two hundred ninety-seven dollars, . . .	297 00
West Brookfield,	Two hundred eighty-five dollars, . . .	285 00
Westborough, .	Four hundred twenty dollars, ...	420 00
Westminster, .	Three hundred ninety-nine dollars, . . .	399 00
Winchendon, .	Five hundred seven dollars, ...	507 00
Worcester, . . .	Five thousand six hundred one dollars, .	5,601 00
		\$29,634 00

HAMPSHIRE COUNTY.

Amherst, . . .	Six hundred twenty-one dollars, ...	\$621 00
Belchertown, .	Four hundred sixty-five dollars, ...	465 00
Chesterfield, .	Two hundred four dollars, ...	204 00
Cummington, .	Two hundred ten dollars, ...	210 00
Easthampton, .	Two hundred twenty-five dollars, ...	225 00
Enfield, . . .	Two hundred thirty-four dollars, ...	234 00
Goshen, . . .	Ninety-six dollars, ...	96 00
Granby, . . .	Two hundred ten dollars, ...	210 00
Greenwich, . .	One hundred forty-four dollars, ...	144 00

HAMPSHIRE COUNTY—CONTINUED.

Hadley, . . .	Four hundred seventy-seven dollars, . . .	\$477 00
Hatfield, . . .	Three hundred fifty-seven dollars, . . .	357 00
Huntington, . .	One hundred thirty-five dollars, . . .	135 00
Middlefield, . .	One hundred sixty-two dollars, . . .	162 00
Northampton, .	One thousand three hundred eleven dollars,	1,311 00
Pelham, . . .	One hundred twenty-nine dollars, . . .	129 00
Plainfield, . .	One hundred fifty-six dollars, . . .	156 00
Prescott, . . .	One hundred thirty-five dollars, . . .	135 00
South Hadley, .	Three hundred seventy-eight dollars, . .	378 00
Southampton, .	Two hundred ten dollars, ...	210 00
Ware, ...	Six hundred twenty-four dollars, . . .	624 00
Westhampton, .	One hundred twenty dollars, ...	120 00
Williamsburg, .	Three hundred forty-five dollars, . . .	345 00
Worthington, .	Two hundred forty-nine dollars, . . .	249 00
		\$7,197 00

HAMPDEN COUNTY.

Blandford, . . .	Two hundred eighty-eight dollars, . . .	\$288 00
Brimfield, . . .	Three hundred fifty-one dollars, . . .	351 00
Chester, ...	Two hundred forty-six dollars, ...	246 00
Chicopee, ...	One thousand eight hundred six dollars, .	1,806 00
Granville, . . .	Two hundred nineteen dollars, ...	219 00
Holland, ...	Eighty-one dollars, ...	81 00
Holyoke, ...	Nine hundred sixty-six dollars, ...	966 00
Longmeadow, . .	Four hundred twenty-three dollars, . .	423 00
Ludlow, ...	Two hundred forty-three dollars, . . .	243 00

HAMPDEN COUNTY—CONTINUED.

Monson, . . .	Four hundred ninety-five dollars, . . .	\$495 00
Montgomery, .	Eighty-four dollars, ...	84 00
Palmer, . . .	Six hundred sixty-nine dollars, ...	669 00
Russell, . . .	Ninety-three dollars, ...	93 00
Southwick, . .	Two hundred seventy-nine dollars, . . .	279 00
Springfield, . .	Three thousand three hundred thirty dol- lars, ...	3,330 00
Tolland, . . .	One hundred eight dollars, ...	108 00
Wales, ...	One hundred twenty-three dollars, . . .	123 00
W. Springfield, .	Eight hundred forty dollars, ...	840 00
Westfield, . . .	Eight hundred fifty-two dollars, ...	852 00
Wilbraham, . . .	Four hundred eighty dollars, ...	480 00
		\$11,976 00

FRANKLIN COUNTY.

Ashfield, . . .	Two hundred eighty-eight dollars, . . .	\$288 00
Bernardston, .	Two hundred one dollars, ...	201 00
Buckland, . . .	One hundred sixty-eight dollars, ...	168 00
Charlemont, . .	Two hundred one dollars, ...	201 00
Colrain, ...	Three hundred forty-five dollars, ...	345 00
Conway, ...	Three hundred sixty-three dollars, ...	363 00
Deerfield, . . .	Five hundred forty dollars, ...	540 00
Erving, ...	Eighty-seven dollars, ...	87 00
Gill, ...	One hundred fifty-six dollars, ...	156 00
Greenfield, . . .	Five hundred sixty-seven dollars, ...	567 00
Hawley, ...	One hundred fifty dollars, ...	150 00
Heath, ...	One hundred forty-one dollars, ...	141 00

FRANKLIN COUNTY—CONTINUED.

Leverett, . . .	One hundred fifty dollars, ...	\$150 00
Leyden, . . .	One hundred eight dollars, ...	108 00
Munroe, . . .	Thirty-three dollars, ...	33 00
Montague, . . .	Two hundred fifty-two dollars, ...	252 00
New Salem, . . .	Two hundred twenty-five dollars, ...	225 00
Northfield, . . .	Three hundred ninety dollars, ...	390 00
Orange, . . .	Three hundred sixty-six dollars, ...	366 00
Rowe, ...	One hundred seventeen dollars, ...	117 00
Shelburne, . . .	Two hundred forty-nine dollars, ...	249 00
Shutesbury, . . .	One hundred sixty-eight dollars, ...	168 00
Sunderland, . . .	One hundred sixty-eight dollars, ...	168 00
Warwick, . . .	Two hundred thirty-seven dollars, ...	237 00
Wendell, . . .	Two hundred ten dollars, ...	210 00
Whately, . . .	Two hundred thirty-seven dollars, ...	237 00
		\$6,117 00

BERKSHIRE COUNTY.

Adams, . . .	Nine hundred sixty-nine dollars, ...	\$969 00
Alford, . . .	One hundred seventeen dollars, ...	117 00
Becket, . . .	One hundred eighty-nine dollars, ...	189 00
Cheshire, . . .	Two hundred eighty-two dollars, ...	282 00
Clarksburg, . . .	Fifty-seven dollars, ...	57 00
Dalton, . . .	Two hundred thirty-seven dollars, ...	237 00
Egremont, . . .	Two hundred forty-three dollars, ...	243 00
Florida, . . .	Eighty-four dollars, ...	84 00
Gt. Barrington, . . .	Six hundred ninety-three dollars, ...	693 00

BERKSHIRE COUNTY—CONTINUED.

Hancock, . . .	One hundred eighty-six dollars, ...	\$186 00
Hinsdale, . . .	Two hundred twenty-two dollars, ...	222 00
Lanesborough, .	Two hundred seventy-three dollars, ...	273 00
Lec, ...	Five hundred forty-six dollars, ...	546 00
Lenox, ...	Two hundred eighty-five dollars, ...	285 00
Monterey, . . .	One hundred twenty-three dollars, ...	123 00
Mt. Washington,	Fifty-one dollars, ...	51 00
New Ashford, .	Fifty-one dollars, ...	51 00
New Marlboro', .	Two hundred ninety-one dollars, ...	291 00
Otis, ...	One hundred eighty-nine dollars, ...	189 00
Peru, ...	One hundred eight dollars, ...	108 00
Pittsfield, . . .	One thousand three hundred ninety-two dollars, ...	1,392 00
Richmond, . . .	One hundred ninety-eight dollars, ...	198 00
Sandisfield, . .	Two hundred sixty-seven dollars, ...	267 00
Savoy, ...	One hundred fourteen dollars, ...	114 00
Sheffield, . . .	Five hundred eighty-eight dollars, ...	588 00
Stockbridge, . .	Three hundred eighty-seven dollars, ...	387 00
Tyringham, . . .	One hundred thirty-five dollars, ...	135 00
Washington, . .	One hundred thirty-five dollars, ...	135 00
W. Stockbridge,	Three hundred six dollars, ...	306 00
Williamstown, .	Five hundred sixteen dollars, ...	516 00
Windsor, ...	One hundred sixty-eight dollars, ...	168 00
		\$9,402 00

NORFOLK COUNTY.

Bellingham, . . .	Two hundred seventy-six dollars, ...	\$276 00
Braintree, . . .	Five hundred seventy-three dollars, ...	573 00

NORFOLK COUNTY—CONTINUED.

Brookline, . .	Two thousand four hundred ninety-six dollars, ...	\$2,496 00
Canton, . . .	Seven hundred two dollars, ...	702 00
Cohasset, . . .	Three hundred ninety-three dollars, . . .	393 00
Dedham, . . .	One thousand five hundred three dollars, . . .	1,503 00
Dorchester, . .	Three thousand two hundred ninety-one dollars, ...	3,291 00
Dover, ...	One hundred fifty-six dollars, ...	156 00
Foxborough, . .	Three hundred fifty-four dollars, ...	354 00
Franklin, . . .	Three hundred forty-eight dollars, ...	348 00
Medfield, . . .	Two hundred forty dollars, ...	240 00
Medway, ...	Four hundred ninety-five dollars, ...	495 00
Milton, ...	Eight hundred forty-six dollars, ...	846 00
Needham, . . .	Four hundred thirty-two dollars, ...	432 00
Quincy, ...	One thousand one hundred twenty-two dollars, ...	1,122 00
Randolph, . . .	Nine hundred thirty-six dollars, ...	936 00
Roxbury, ...	Six thousand six hundred nine dollars, . . .	6,609 00
Sharon, ...	Two hundred eighty-eight dollars, ...	288 00
Stoughton, . . .	Six hundred twenty-one dollars, ...	621 00
Walpole, ...	Four hundred twenty-three dollars, ...	423 00
Weymouth, . . .	Nine hundred forty-two dollars, ...	942 00
Wrentham, . . .	Six hundred dollars, ...	600 00
		\$23,646 00

BRISTOL COUNTY.

Attleborough, .	Six hundred fifteen dollars, ...	\$615 00
Berkley, ...	One hundred seventy-four dollars, ...	174 00
Dartmouth, . . .	One thousand one hundred fifty-two dollars, ...	1,152 00

BRISTOL COUNTY—CONTINUED.

Dighton, . . .	Two hundred eighty-five dollars, . . .	\$285 00
Easton, . . .	Three hundred ninety-nine dollars, . .	399 00
Fairhaven . .	One thousand five hundred eighty-four dollars, ...	1,584 00
Fall River, . .	Three thousand one hundred seventeen dollars, ...	3,117 00
Freetown, . .	Three hundred dollars, ...	300 00
Mansfield, . .	Two hundred thirty-one dollars, ...	231 00
New Bedford, .	Six thousand nine hundred fifty-four dol- lars, ...	6,954 00
Norton, . . .	Three hundred seventy-eight dollars, . .	378 00
Pawtucket, . .	Five hundred thirty-four dollars, ...	534 00
Raynham, . .	Two hundred seventy-three dollars, . . .	273 00
Rehoboth, . .	Three hundred seventy-five dollars, . . .	375 00
Seekonk, . . .	Three hundred seventy-eight dollars, . .	378 00
Somerset, . . .	Two hundred forty-three dollars, ...	243 00
Swansey, . . .	Two hundred eighty-two dollars, ...	282 00
Taunton, . . .	Two thousand thirteen dollars, ...	2,013 00
Westport, . . .	Seven hundred forty-seven dollars, . . .	747 00
		\$20,034 00

PLYMOUTH COUNTY.

Abington, . . .	Eight hundred sixty-seven dollars, . . .	\$867 00
Bridgewater, .	Six hundred forty-five dollars, ...	645 00
Carver, ...	One hundred ninety-five dollars, ...	195 00
Duxbury, . . .	Five hundred seventy-nine dollars, . . .	579 00
E. Bridgewater,	Four hundred fifty-nine dollars, ...	459 00
Halifax, ...	One hundred forty-seven dollars, ...	147 00
Hanover, ...	Three hundred dollars, ...	300 00

PLYMOUTH COUNTY—CONTINUED.

Hanson, . . .	Two hundred ten dollars, ...	\$210 00
Hingham, . . .	Eight hundred sixty-one dollars, . . .	861 00
Hull, ...	Sixty dollars, ...	60 00
Kingston, . . .	Four hundred thirty-eight dollars, . . .	438 00
Marshfield, . .	Three hundred fifty-one dollars, ...	351 00
Middleborough, .	Nine hundred dollars, ...	900 00
N. Bridgewater, .	Six hundred twenty-one dollars, ...	621 00
Pembroke, . . .	Two hundred forty-six dollars, ...	246 00
Plymouth, . . .	One thousand three hundred fourteen dollars, ...	1,314 00
Plympton, . . .	One hundred eighty-three dollars, . . .	183 00
Rochester, . . .	Six hundred sixty-three dollars, ...	663 00
Scituate, ...	Three hundred seventy-five dollars, . . .	375 00
South Scituate, .	Three hundred ninety-nine dollars, . . .	399 00
Wareham, ...	Five hundred twenty-five dollars, ...	525 00
W. Bridgewater, .	Two hundred seventy-nine dollars, . . .	279 00
		\$10,617 00

BARNSTABLE COUNTY.

Barnstable, . . .	Eight hundred forty-three dollars, ...	\$843 00
Brewster, ...	One hundred ninety-eight dollars, ...	198 00
Chatham, ...	Two hundred ninety-seven dollars, ...	297 00
Dennis, ...	Four hundred sixty-two dollars, ...	462 00
Eastham, ...	One hundred fourteen dollars, ...	114 00
Falmouth, ...	Five hundred thirteen dollars, ...	513 00
Harwich, ...	Three hundred thirty-nine dollars, ...	339 00
Orleans, ...	Two hundred seven dollars, ...	207 00

BARNSTABLE COUNTY—CONTINUED.

Provincetown, .	Five hundred fifty-eight dollars, ...	\$558 00
Sandwich, . .	Seven hundred thirty-two dollars, ...	732 00
Truro, ...	Two hundred thirty-seven dollars, ...	237 00
Wellfleet, . . .	Two hundred thirteen dollars, ...	213 00
Yarmouth, . . .	Four hundred seventeen dollars, ...	417 00
		\$5,130 00

DUKES COUNTY.

Chilmark, . . .	Two hundred thirty-seven dollars, ...	\$237 00
Edgartown, . . .	Three hundred sixty-nine dollars, ...	369 00
Tisbury, ...	Three hundred fifteen dollars, ...	315 00
		\$921 00

NANTUCKET COUNTY.

Nantucket, . . .	Two thousand three hundred twenty-five dollars, ...	\$2,325 00
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RECAPITULATION.

Suffolk County, .	One hundred thousand eight hundred forty-five dollars, ...	\$100,845 00
Essex County, . .	Twenty-nine thousand five hundred twenty-three dollars, ...	29,523 00
Middlesex County,	Forty-two thousand six hundred twenty-seven dollars, ...	42,627 00
Worcester County,	Twenty-nine thousand six hundred thirty-four dollars, ...	29,634 00
Hampshire County,	Seven thousand one hundred ninety-seven dollars, ...	7,197 00
Hampden County,	Eleven thousand nine hundred seventy-six dollars, ...	11,976 00
Franklin County, .	Six thousand one hundred seventeen dollars, ...	6,117 00

RECAPITULATION—CONTINUED.

Berkshire County,	Nine thousand four hundred two dollars,	\$9,402 00
Norfolk County, .	Twenty-three thousand six hundred forty-six dollars, ...	23,646 00
Bristol Connty, .	Twenty thousand thirty-four dollars, .	20,034 00
Plymouth County, .	Ten thousand six hundred seventeen dollars, ...	10,617 00
Barnstable County,	Five thousand one hundred thirty dollars, ...	5,130 00
Dukes County, . .	Nine hundred twenty-one dollars, . .	921 00
Nantucket County,	Two thousand three hundred twenty- five dollars, ...	2,325 00
		\$299,994 00

SECTION 2. The treasurer of the Commonwealth shall forthwith send his warrant, with a copy of this act, directed to the selectmen or assessors of each city or town taxed as aforesaid, requiring them respectively, to assess the sum so charged, according to the provisions of the seventh chapter of the Revised Statutes; and to add the amount of such tax to the amount of town and county taxes to be assessed by them respectively on each city or town.

Treasurer shall
issue warrants to
selectmen, &c.

SECTION 3. The treasurer in his said warrant, shall require the said selectmen or assessors to pay or to issue their several warrant or warrants, requiring the treasurers of their several cities or towns to pay to said treasurer of the Commonwealth, on or before the first day of December, in the year one thousand eight hundred and fifty-nine, the sums set against said cities or towns in the schedule aforesaid; and the selectmen or assessors, respectively, shall return a certificate of the names of such treasurers, with the sum which each may be required to collect, to the said treasurer of the Commonwealth, at some time before the first day of October next.

When payable.

Names of treasurers to be returned.

SECTION 4. If the amount due from any city or town, as provided in this act, shall not have been paid to the treasurer of the Commonwealth within the time specified, then the said treasurer shall notify the treasurer of said delinquent city or town, who shall pay into the treasury of the Commonwealth, in addition to the tax, such further sum as would be equal to one per centum per month during such delinquency, dating on and after the first day of December next; and if the same shall remain unpaid after the first day of January

One per cent. per month additional for delinquency.

next, an information may be filed by the treasurer of the Commonwealth in the supreme judicial court or before any justice thereof, against such delinquent city or town; and upon notice to such city or town, and a summary hearing thereon, a warrant of distress may issue against such city or town, to enforce the payment of said taxes, under such penalties as the said court, or the justice thereof before whom the hearing is had, shall order.

SECTION 5. This act shall take effect from and after its passage.

Approved April 6, 1859.

Chap. 221 AN ACT IN ADDITION TO AN ACT TO REGULATE CERTAIN MATTERS OF FINANCE.

Be it enacted, §c., as follows :

Compensation of clerks.

SECTION 1. No clerk in the office of the secretary of the Commonwealth, the treasurer and receiver-general, or the auditor of accounts or the attorney-general, except those whose compensation is fixed by law, shall receive for services rendered in regular office hours a larger sum than at the rate of one thousand one hundred dollars per annum. The secretary shall pay into the treasury of the Commonwealth all fees received by him. Any appropriation for fees of witnesses before committees of the legislature, may be applied, so far as may be necessary, to pay the expenses of taking depositions in cases where they were ordered or authorized by such committees, provided that bills therefor shall be audited by the auditor, and shall likewise be approved in accordance with the provisions of the resolves of the year one thousand eight hundred and fifty-seven, chapter nineteen.

Fees received by secretary.

Fees of witnesses before committees.

Disbursements of money to be reported to auditor.

SECTION 2. All officers in the several departments of the government, having charge of the disbursement of any money, appropriated either from the ordinary revenue or from the income of any trust or other funds belonging to or under the charge of the Commonwealth, shall annually in the first week of January, make report to the auditor, stating in detail the expenditures by them made, and the objects to which said expenditures have been applied: and said reports shall be made in such form as the auditor shall prescribe.

Rainsford Island Hospital, accounts monthly.

Superintendent to give bonds.

The officers of the hospital at Rainsford Island shall return all bills and accounts of expenditures, on account of the current expenses of said hospital, once in every month. And the superintendent of said hospital shall give bonds in like manner and under the same conditions as the superintendents of the state almshouses are now required to give.

SECTION 3. All charges in bills or schedules for articles purchased, services rendered or expenses incurred for the Commonwealth, unless for salaries fixed by law or for payments otherwise provided for, the auditor may, and where the amount of such bill or schedule exceeds fifty dollars, shall cause to be sworn to, that such articles have been purchased, services rendered and expenses incurred, before such claims shall be allowed; and all original bills, and original bills included in any such schedules, shall, within one month after the money shall have been paid, be delivered to the auditor to be retained by him.

Claims against state to be vouched under oath, in case, &c.

SECTION 4. Whenever any public officer, who is required by law to account with and pay over money to the county treasurer, shall fail to render a true account and make payment of all such money due, for ten days after the time limited by law therefor, such treasurer shall give notice of such default to the district-attorney, who shall forthwith institute all necessary proceedings for the recovery of the amount due.

District-attorneys to proceed against delinquent public officers.

SECTION 5. It shall be the duty of every county treasurer, immediately on the passage of this act, to give notice to the district-attorney, of all present defaults on the part of public officers who have been heretofore required by law to render accounts and make payments to him or his predecessor; and the district-attorney shall proceed as provided in the preceding sections.

County treasurers to notify district-attorneys of all defaults.

SECTION 6. The auditor of accounts is hereby authorized to appoint, with the approval of the governor, some suitable person—such public notice thereof to be given as the governor may direct—subject to removal at any time, who may, as well as said auditor, and under his direction, countersign any circulating notes of the similitude of bank notes, which said auditor shall furnish to any banking institution organized under the provisions of the act of the year one thousand eight hundred and fifty-one, chapter two hundred sixty-seven.

Auditor may appoint a person to countersign bank notes.

SECTION 7. Commissioners and other public officers, having jurisdiction throughout the Commonwealth, to whom, by law, travelling expenses are allowed, shall be entitled to receive not more therefor than three and one-half cents a mile each way, computed from the city of Boston to the place visited, for each mile actually travelled, and in no case more than the amount actually expended.

Mileage of public officers.

Approved April 6, 1859.

Chap. 222 AN ACT IN FURTHER ADDITION TO "AN ACT FOR SUPPLYING THE CITY OF BOSTON WITH PURE WATER."

Be it enacted, &c., as follows :

City of Boston
authorized to
construct aque-
duct from Brook-
line, through
Roxbury.

SECTION 1. The city of Boston is hereby authorized, by and through the agency of the Cochituate Water Board, therein, to construct an aqueduct, or to lay a new main pipe, from its reservoir in the town of Brookline, through the said town and the city of Roxbury, to the said city of Boston, and to continue the same into and through the said city of Boston, in the manner provided in the act to which this is in addition ; and for this purpose may take and hold, by purchase or otherwise, any lands or real estate necessary therefor ; *provided* all lands so taken and held, or that are now held by virtue of any former act, shall be liable to taxation : and may construct said aqueduct, or lay said pipe, over or under any water-course, or any streets, turnpike roads, railroads, highways or other ways, in such manner as not to obstruct or impede the travel thereon ; and may enter upon and dig up any such roads, streets or ways, for the purpose of constructing said aqueduct, or laying down said pipe beneath the surface thereof, and for maintaining and repairing the same ; but always in such manner and with such care as not to render the roads, streets or ways, unsafe or unnecessarily inconvenient to the public travel thereon : *provided, however,* that the said city of Boston shall be subject to all regulations which the mayor and aldermen of the city of Roxbury, or the selectmen of the town of Brookline may prescribe, as to time, place and manner of digging up any streets or ways of public travel, for the purpose aforesaid, within their respective limits ; and *provided, also,* that said city of Boston shall not construct an aqueduct or lay a pipe in any street or way in the city of Roxbury or town of Brookline, in such places or in such manner, as shall in the opinion of the mayor and aldermen of the city of Roxbury, or the selectmen of the town of Brookline, at any time prevent, or interfere with, the construction of culverts, sewers and drains in such street or way.

Good condition
of streets and
ways to be re-
stored.

Boston to reim-
burse, &c.

SECTION 2. Whenever the said city of Boston shall dig up any street or way, as aforesaid, it shall restore the same to as good order and condition as the same shall be in when such digging shall be commenced ; and the said city of Boston shall at all times indemnify and save harmless the said city of Roxbury, and the said town of Brookline, against all damages which may be recovered against them, respectively, and shall reimburse to them, respectively, all expenses which they shall incur by reason of any defect or want of

repair in any street or way, caused by the construction of said aqueduct, or the laying of said pipe, or by the maintaining or repairing of the same.

SECTION 3. The said city of Boston shall be liable to pay all damages that shall be sustained by any persons in their property, by the taking of any land or real estate, or the constructing of said aqueduct, or the laying of said pipe, as aforesaid; and any person sustaining damage, as aforesaid, may have the same ascertained, determined, collected and paid, in the manner which is provided in the sixth, seventh and eighth sections of the act to which this is in addition.

To pay damages sustained by persons.

SECTION 4. The city of Roxbury and the town of Brookline may require the city of Boston, while constructing said aqueduct or laying down said pipe, to insert therein a number of hydrants, not exceeding six in said Roxbury and four in said Brookline, to be used for the purpose of extinguishing fires, and for no other purpose; and the said city of Roxbury and town of Brookline shall pay the expenses of keeping in repair all such hydrants as shall be so inserted upon their respective requisitions, after the same shall have been constructed.

Boston to provide hydrants in Roxbury and Brookline.

SECTION 5. This act shall not take effect until the same shall have been accepted by the city council of the city of Boston.

Act void unless accepted by city council.

Approved April 6, 1859.

AN ACT IN RELATION TO CONVEYANCES OF LANDS OR FLATS
BELONGING TO THE COMMONWEALTH.

Chap. 223

Be it enacted, &c., as follows:

SECTION 1. All conveyances hereafter made of land or flats of the Commonwealth shall be subject to the approval of the governor and council; and any conveyance made or to be made under the provisions of chapter two hundred and ten of the acts of eighteen hundred and fifty-nine, shall be included under the provisions of this act. But in case any such conveyance be required by the award of the commissioners named in section fourth of said act, and the same shall not be made within sixty days from the date of said award, then the third and fourth sections of said act shall be null and of no effect; and if for that or any other cause, said act should fail to have full and complete effect, then the enactment of said act shall not be deemed to prejudice any rights of the Commonwealth or of the city of Boston.

Conveyances to be approved by governor and council.

Sections of chap. 210 void in case, &c.

SECTION 2. This act shall take effect from and after its passage.

Approved April 6, 1859.

Chap. 224 AN ACT TO AUTHORIZE THE APPOINTMENT OF A SURVEYOR-GENERAL OF LUMBER, AND THE ESTABLISHMENT OF A LUMBER DISTRICT.

Be it enacted, &c., as follows :

Surveyor-general
to be appointed.

SECTION 1. The governor, with the advice and consent of the council, shall appoint a trustworthy and competent person to be surveyor-general of lumber, for a district to consist of the county of Suffolk and the cities of Charlestown, Cambridge, Roxbury, and the town of Dorchester, and the town of Quincy and the town of Brighton; and whenever the buyer and seller shall agree to have lumber surveyed under the direction of the surveyor-general, such survey shall be lawful in any city or town in this Commonwealth. Said surveyor-general shall hold his office for the term of three years, unless sooner removed.

Term of office.

Residence and
location of
office.

Bonds.

To appoint deputies.

Deputies' bonds

Duties, &c.

Selection of
deputies.

SECTION 2. The said surveyor-general shall reside in the district above described, and shall keep an office in the city of Boston, conveniently located, and accessible to the public, and shall give bond, with sufficient sureties, to the treasurer of the Commonwealth, in the sum of two thousand dollars, for the faithful discharge of his duty, and he shall be sworn to perform the same; and he shall be authorized and required to appoint a sufficient number of competent and discreet deputy-surveyors, out of which he shall appoint one or more whose duty it shall be to survey oak and other wood commonly used in ship building, and also one or more whose duty it shall be to survey mahogany, cedar, and other ornamental wood and lumber; and said surveyor-general shall be answerable for his deputies, and shall take a bond from them respectively, for the faithful discharge of their duty, and they shall be sworn to perform the same; and they shall be removed at the pleasure of the said surveyor-general; and it shall be the duty of said surveyor-general, to survey and admeasure all lumber brought into the said district for sale, except lumber manufactured in this Commonwealth, which shall also be surveyed, when request therefor is made by either the purchaser or seller.

SECTION 3. The surveyor-general, in appointing deputies for the city of Boston, shall select citizens of Boston; for Chelsea, citizens of Chelsea; for Charlestown, citizens of Charlestown; for Cambridge, citizens of Cambridge; for Roxbury, citizens of Roxbury; for Dorchester, citizens of Dorchester; for Quincy, citizens of Quincy, and for Brighton, citizens of Brighton: *provided*, that no person shall be appointed or continued in office as a deputy-surveyor, who is a dealer in the kind of lumber which he is appointed to survey, or shall survey any lumber in which he has a

pecuniary interest; but all surveys shall be made under the direction of the surveyor-general by his deputies; and application shall be made by all persons requiring surveys to the surveyor-general, who shall direct his deputies in rotation, or in such other order or manner as he shall deem expedient: *provided, however*, the surveyor-general shall keep a record of the time each deputy shall survey for any and all persons or firms, and the amount of fees received by each; which record shall be at all times opened to the inspection of any members of the city council of Boston, Chelsea, Charlestown, Cambridge, Roxbury, and selectmen of the towns of Dorchester, Brighton and Quincy.

Record of surveys.

SECTION 4. The deputy-surveyors shall make surveys of lumber in the manner described in the third, fourth, fifth, sixth, seventh, eighth, ninth and tenth sections of the one hundred and sixty-fourth chapter of the acts of eighteen hundred and fifty-eight; and the fees to be received by said deputies for surveying and marking shall be the same as are prescribed in the eleventh section of said chapter; and the penalties upon surveyors for fraud or deceit, in surveys, and upon persons purchasing or selling lumber or wood, which has not been surveyed, numbered and marked, shall be the same as are mentioned in the twelfth and thirteenth sections of the said chapter.

Manner of surveys.

Fees.

Penalties.

SECTION 5. The deputy-surveyors shall collect the fees in accordance with this act, and as often as once in three months, and when collected, shall pay over to the surveyor-general, to his own use, ten cents for every hundred cents so collected and received by them.

Deputies to collect fees, &c.

SECTION 6. It shall be the duty of the surveyor-general, annually, on or before the first day of October, to make a true return to the secretary of state, of all lumber surveyed in the said district, by himself and deputies, specifying the various kinds and qualities, and by whom surveyed, and the amount of all fees received by him and his deputies.

Surveyor-general to make annual return.

SECTION 7. This act shall take effect from and after the first day of October next.

Act, when in force.

Approved April 6, 1859.

AN ACT CONCERNING DOGS.

Chap. 225

Be it enacted, &c., as follows:

SECTION 1. Every owner of a dog, shall, on or before the thirtieth day of April in each year, cause it to be registered, numbered, described and licensed, for one year from the first day of May then next ensuing, in the clerk's office of the city or town wherein he resides; and shall pay for such license, one dollar for a male dog, and five dollars for a

Dogs to be registered and licensed.

female dog. The license shall be issued, and the money received by said clerk, who shall pay the same into the treasury of said city or town, to be used and appropriated with the other funds therein. The treasurer shall keep an accurate and separate account of all sums, received and paid out, under the various provisions of this act, which account shall always be open to the inspection of any voter of the place.

Treasurer to keep account.

Owners to provide collars.

SECTION 2. The owner of every dog so licensed, shall cause it to wear around its neck, a collar distinctly marked with its owner's name and registered number.

Duty of city and town clerks.

SECTION 3. The clerk shall within one week after the first day of May, annually, post in some conspicuous public place, a list of all dogs licensed for the then current year; and shall furnish a copy thereof to the chief of police of his city, or one of the constables of his town; and shall also, from time to time, furnish said officer with a list of such dogs as shall be subsequently licensed during the year.

Unlicensed dogs to be destroyed.

SECTION 4. Any person may, and every police officer and constable shall, kill or cause to be destroyed, all dogs going at large and not licensed and collared according to the provisions of this act. Officers shall receive from the city or town treasury fifty cents for each dog so destroyed by them: but if any officer or other person shall distribute or expose any poisonous substance, with intent that the same shall be eaten by any dog or other domestic animal, he shall be punished by fine not exceeding fifty nor less than ten dollars.

Bounty.

Poison prohibited.

Penalty for removing collars, or wrongfully killing.

SECTION 5. Whoever wrongfully removes the collar, from the neck of a dog so licensed and collared, or steals a dog so licensed and collared, shall be punished by fine not exceeding fifty dollars. Whoever wrongfully kills, maims, entices or carries away a dog so licensed and collared, shall be liable to its owner for its full value in an action of tort.

Cities and towns liable for loss in certain cases.

SECTION 6. The owner of any sheep or lambs suffering loss by reason of the worrying, maiming or killing thereof by dogs, may present, within thirty days after such loss shall come to his knowledge, to the mayor or selectmen of the city or town wherein the damage is done, proof thereof:— and thereupon the said officers shall draw an order in favor of the owner, upon the treasurer of said city or town for the amount of such loss. The treasurer shall register all such orders at the time of their presentation, and shall annually, on the first day of January, pay all such orders in full, if the gross amount received by said city or town, under the provisions of this act, up to such date, after deducting all sums previously paid out under such provisions, is sufficient

therefor; otherwise, the treasurer shall divide said amount, after deducting as aforesaid, *pro rata* among said orders and in full discharge thereof.

SECTION 7. Upon drawing an order as is provided in the foregoing section, the city or town may recover against the keeper or owner of any dog or dogs concerned in doing the damage, the full amount of the damage done, in an action of tort. Liability of owners of dogs for damages.

SECTION 8. The owner of sheep or lambs worried, maimed or killed by dogs, shall have his election whether to proceed under the provisions of this act or under the provisions of the fifty-eighth chapter of the Revised Statutes; but having once signified such election by commencing a suit or obtaining an order, the other remedy shall not thereafter be open to him. Process for damages.

SECTION 9. Whoever keeps a dog not registered, numbered, described and licensed according to the provisions of this act, shall forfeit the sum of ten dollars, to be recovered by complaint to the use of the town wherein the dog is kept. Penalty for neglect to license.

SECTION 10. Owners of dogs may at any time have them licensed, until the first day of May then next ensuing, upon payment to the clerk, of the sums provided in the first section of this act; but such payment and license shall not exempt them from the penalties of the preceding section, on any complaint already made. Time and manner of license.

SECTION 11. No new license for the then current year, shall be required upon the removal of any licensed dog into any other town or city, unless the same be required by some by-law passed under the provisions of the fourteenth section of this act. License not vitiated by removal, except, &c.

SECTION 12. The mayor and aldermen of each city, and the selectmen of each town, shall require all dogs not licensed and collared according to the provisions of this act, to be destroyed, and shall enforce all the penalties herein provided. City and town authorities to destroy unlicensed dogs.

SECTION 13. A city or town officer refusing or neglecting to perform the duties imposed upon him by this act, shall be punished by fine not exceeding twenty-five dollars, which shall be paid into the treasury of such city or town. Penalty for neglect of duty.

SECTION 14. The city council of any city, and the inhabitants of any town, may make such additional by-laws and regulations concerning the licensing and restraining of dogs, as they may deem expedient; and may affix any penalties, not exceeding ten dollars, for any breach thereof; said by-laws and regulations shall relate only to dogs owned or kept in such city or town; and the annual fee required for a Cities and towns may make additional laws, &c.

license, shall not be more than one dollar, in addition to the sum required by the first section of this act.

Repeal.

SECTION 15. The tenth and eleventh sections of the fifty-eighth chapter of the Revised Statutes, the two hundred and forty-fifth chapter of the acts of the year eighteen hundred and fifty, the one hundred and thirty-ninth chapter of the acts of eighteen hundred and fifty-eight, and all other acts inconsistent herewith are hereby repealed, saving all rights heretofore acquired.

SECTION 16. This act shall take effect upon its passage.

Approved April 6, 1859.

Chap. 226

AN ACT RELATING TO MILITARY ACCOUNTS.

Be it enacted, &c., as follows:

Accounts to be sent to adjutant-general.

SECTION 1. All pay-rolls returned by the mayor and aldermen of any city, and the selectmen of any town, and all accounts for the expenses of elementary drills, shall be transmitted to the adjutant-general, on or before the first day of December in each year.

Other accounts, when to be sent.

SECTION 2. All military accounts, which are not now required by law to be transmitted at an earlier time, shall be transmitted to the adjutant-general, on or before the fifth day of January, in the year next succeeding the year in which the expense was incurred or service rendered.

No account allowed unless sent, &c.

SECTION 3. No military account shall be certified by the adjutant-general nor allowed by the auditor, unless the same shall have been presented to the adjutant-general for allowance within the time limited by law therefor.

Approved April 6, 1859.

Chap. 227

AN ACT CONCERNING TAXATION, AND RETURNS OF CORPORATIONS TO ASSESSORS.

Be it enacted, &c., as follows:

Purchasers of stocks to give actual residence.

SECTION 1. No certificate of stock shall be issued by any corporation named in the first section of the ninety-eighth chapter of the laws of the year eighteen hundred and forty-three, concerning which returns of shares are required to be made to assessors, until the purchaser shall have informed such corporation of his actual place of residence; and upon the issuing of such certificate, the corporation shall register the name and residence of the purchaser. And whenever the purchaser shall change his residence, to some other town or city in this state, he shall immediately give notice thereof, stating the place of his residence to said corporation, and due registration of the same, by the corporation, shall be made.

Change of residence to be registered.

SECTION 2. Returns of the name and actual residence of the owner of stock in any corporation referred to in the foregoing section, and all returns relative to such stock, shall be made by such corporation to the assessors of every city or town in this Commonwealth, conformably with the requirements of the three hundred and eighth chapter of the laws of the year eighteen hundred and fifty.

Corporations to make returns to assessors.

SECTION 3. Any purchaser of stock in any corporation aforesaid, who shall wilfully misinform such corporation respecting his name or place of residence, or shall wilfully omit to give notice of a change of his residence as herein required, shall forfeit a sum not exceeding one hundred dollars, to be recovered by indictment.

Penalty on purchaser.

SECTION 4. Any corporation that shall neglect to comply with the provisions of this act, or with any of the requirements embraced in the laws mentioned in this act, shall forfeit for each offence a sum not exceeding one hundred dollars, to be recovered by indictment.

Penalty on corporation.

Approved April 6, 1859.

AN ACT CONCERNING APPLICATIONS FOR JURIES TO ASSESS DAMAGES.

Chap. 228

Be it enacted, &c., as follows:

SECTION 1. If any person, having the right in any case to apply to county commissioners for a jury to assess damages or hear and determine any other matter, shall die before the expiration of the time within which he is entitled to apply for such jury, the executor or administrator of such person, or heir or devisee, if the party in interest, may apply for such jury within one year after his appointment; and the county commissioners shall order such jury in like manner as if the same had been applied for before the decease of such person.

Executor, &c., to apply in case of death.

SECTION 2. This act shall take effect from and after its passage.

Approved April 6, 1859.

AN ACT RELATING TO BOARDING-HOUSE KEEPERS.

Chap. 229

Be it enacted, &c., as follows:

SECTION 1. All boarding-house keepers shall have a lien upon the baggage and effects of their guests and boarders, except seamen and mariners, brought to their respective houses, until all the proper charges due to such keepers for the fare and board of all such guests and boarders shall be paid.

Lien upon baggage and effects, except, &c.

SECTION 5. This act shall take effect from and after its passage.

Approved April 6, 1859.

Chap. 230

AN ACT CONCERNING THE COMPETENCY OF WITNESSES.

Be it enacted, &c., as follows :

Wife to testify in certain cases.

SECTION 1. In all actions brought against the husband, wherein the cause of action grows out of any wrong or injury by the husband to the wife, or his neglect to furnish her with the proper means of support, the wife may testify.

Contracting parties to testify in case, &c.

SECTION 2. In all cases where one party to the contract or cause of action is dead or insane ; or an executor, administrator, guardian or assignee of an insolvent debtor is a party to a suit, the other party may testify in his own behalf : *provided*, such contract was originally made with a party who is living and competent to testify.

*Approved April 6, 1859.**Chap. 231*

AN ACT TO LIMIT THE CONTRACTING OF COUNTY DEBTS.

*Be it enacted, &c., as follows :**Pro rata limitation.*

From and after the passage of this act, no county debt shall be authorized or contracted in any one year, or for any one object, by the county commissioners, exceeding thirty dollars for each and every thousand inhabitants of such county ; but this act shall not restrain said commissioners from renewing the whole or a portion of any debt now due from their county, nor prevent them from negotiating a loan in anticipation of the annual tax, to be paid from the proceeds of such tax when collected.

Proviso.

*Approved April 6, 1859.**Chap. 232*

AN ACT RELATING TO AGRICULTURAL SOCIETIES.

Be it enacted, &c., as follows :

Premiums, conditions of awarding.

SECTION 1. No animal or article, for which a premium shall have been awarded to the owner, by any incorporated agricultural society, receiving the bounty of the state, shall be considered a subject for any further premium of the same or any other such incorporated society, except for qualities different from those for which the former premium was awarded, or for a higher premium ; and no animal or article in any year offered for a premium, at any such society, shall be offered for a premium at any other such society in the same year ; but nothing in this act shall affect, restrain or limit a competitor for premiums offered by the state board of agriculture, or the Massachusetts Society for the Promotion of Agriculture, to be awarded within the incorporated county agricultural societies ; but such premiums shall be subject to the rules and regulations prescribed by said board, or by the trustees of said Massachusetts society.

Evidence required before award.

SECTION 2. No incorporated agricultural society shall award a premium for a field crop, without satisfactory evi-

dence under oath presented to its committee or other officers, that the whole merchantable crop so entered, has been weighed when harvested, if a grass or root crop, and when threshed or husked, if a grain or corn crop; but this provision shall not prevent any such society from requiring such further modes of ascertaining the merchantable amount of product, either at the time of harvesting, or at any other times, as it may require.

SECTION 3. The agricultural societies herein named shall commence their annual exhibition on the days following:

Time of exhibition fixed for certain agricultural societies.

The "Middlesex North," and "Highland," on the last Thursday but two in September;

The "Middlesex South," and "Hampden East," on the last Tuesday but one in September;

The "Middlesex," and "Hampden," on the last Thursday but one of September;

The "Essex," and "Worcester North," and "Berkshire," on the last Tuesday of September;

The "Franklin," "Worcester County West," and "Norfolk," on the last Thursday of September;

The "Housatonic," "Worcester," and "Bristol," on the first Tuesday of October;

The "Hampshire, Hampden and Franklin," "Worcester South," and "Plymouth," on the first Thursday of October;

The "Barnstable," on the second Tuesday of October;

The "Nantucket," and "Hampshire," on the second Thursday of October;

The "Martha's Vineyard," on the third Tuesday of October.

SECTION 4. The board of agriculture shall have power to require the several agricultural societies receiving the bounty of the state, to offer premiums from time to time for agricultural experiments, to be conducted in such manner as said board may direct.

Premiums for experiments.

SECTION 5. A society which shall neglect, in any year, to comply with the several general laws concerning agricultural societies, or with such regulations of the board of agriculture, shall not be entitled to the bounty of the state the year next succeeding.

Bounty forfeited for neglect.

SECTION 6. This act shall take effect from and after January, eighteen hundred and sixty. *Approved April 6, 1859.*

AN ACT CONCERNING RETURNS BY OFFICERS, OF PRECEPTS IN CRIMINAL CASES.

Chap. 233

Be it enacted, &c., as follows:

SECTION 1. Whenever a precept shall be delivered to an officer for the execution of sentence, in any criminal case, he

Precept returnable to court issuing, except.

shall, where there is no other provision by law, make return of the same, with his doings thereon, to the court or justice which issued the same, without charge for travel in returning the precepts; and in all such cases he shall leave an attested copy of the precept, with his return thereon, with the jailer or keeper of the prison, and the same shall be a sufficient warrant for the detention of the party accused.

Copy to be left with jailer or keeper.

Fees of officer.

SECTION 2. The fees of the officer executing such precept shall be indorsed thereon, and be taxed, certified and allowed, in the same manner as the other costs in the case; and where the same are now by law certified to the court of common pleas for allowance, it shall not be necessary to return a copy of the precept, but only a memorandum thereof, and the items of the officer's fees and charges.

Approved April 6, 1859.

Chap. 234

AN ACT TO PREVENT THE INFRINGEMENT OF TRADE MARKS.

Be it enacted, &c., as follows:

Infringement of trade marks prohibited.

SECTION 1. If any person shall use any peculiar name, letters, marks, device or figures, cut, stamped, cast or engraved upon, or in any manner attached to or connected with any article manufactured or sold by him to designate it as an article of a peculiar kind, character or quality, or as manufactured by him, it shall be unlawful for any other person, without his consent, to use the same or any similar names, letters, marks, devices or figures, for the purpose of falsely representing any article to have been manufactured by or to be of the same kind, character or quality, as that manufactured or sold by the person rightfully using such name, letters, mark, device or figure.

Liability for damages.

SECTION 2. Any person who shall violate the provisions of the first section of this act, or shall knowingly sell, or expose for sale, any article having any name, letters, mark, device or figure, attached to or connected with them, in violation of the first section of this act, shall be liable to any party aggrieved thereby for all damages actually incurred, to be recovered in an action of tort.

Injunction.

SECTION 3. The supreme judicial court may restrain by injunction any person violating the provisions of this act.

Repeal.

SECTION 4. The act of eighteen hundred and fifty-two, chapter one hundred and ninety-seven, is hereby repealed, and this act shall take effect from its passage.

Approved April 6, 1859.

AN ACT IN ADDITION TO "AN ACT TO PROTECT MARINERS AND SHIP-OWNERS FROM IMPOSITION."

Chap. 235

Be it enacted, &c., as follows:

No seaman or mariner who has shipped for or entered into contract for any voyage, to be by him performed, from any port in this Commonwealth, shall be liable to arrest on *mesne* process for or on account of any debt or obligation to any landlord or boarding-house keeper by him incurred; nor shall any such landlord or boarding-house keeper detain, or have any lien upon the wearing apparel, or other property of such seaman or mariner, or hinder, obstruct or delay him in the performance of said contract of shipment, under a penalty of not more than two hundred dollars, to be recovered by complaint in any court competent to try the same.

Seamen under contract exempt from arrest or detention, &c.

Penalty.

Approved April 6, 1859.

AN ACT RELATING TO POLICE COURTS.

Chap. 236

Be it enacted, &c., as follows:

SECTION 1. All complaints made to any police court or trial justice, shall be entered on a docket to be kept for the purpose, and all warrants issued upon any complaint shall be returned to the court or justice specified in the warrant, with the return of the officer serving the same, or who had the same for service, indorsed thereon.

Complaints and warrants.

SECTION 2: The clerks of the several police courts, where the office of clerk is established by law, shall receive all fees, fines, forfeitures and costs accruing from the business of said court in civil and criminal cases, and shall account for, and pay over the same quarterly, in the months of January, April, July and October, to the parties entitled to receive the same, under the acts by which such courts were severally established, or by other provisions of law.

Clerks to receive and account for fees.

Approved April 6, 1859.

AN ACT TO REGULATE PROCEEDINGS IN EQUITY.

Chap. 237

Be it enacted, &c., as follows:

SECTION 1. All cases in equity, and all motions and other applications therein, whether interlocutory or final, shall, in the first instance, be heard and determined by some one justice of the supreme judicial court.

Equity cases to be heard by justice supreme judicial court.

SECTION 2. From all final decrees made by such justice, any party aggrieved may, within thirty days after the entry of such decree, enter an appeal to the full court, by causing an entry of such claim to be made on the clerk's docket; and thereupon all proceedings under such decree shall be stayed, and such appeal shall be thereupon deemed to be pending before the full court, who shall hear and determine

Final decrees.

*Appeal from to full court.

the same, and affirm, reverse or modify the decree appealed from, as to them may seem lawful. And, upon the reversal of any final decree, when it shall be found most convenient so to do, the full court may remand the cause to a single justice, further to proceed therein, in conformity with such directions as may be found necessary and proper, or may refer the cause to a master, or take such other order respecting future proceedings therein as equity may require, and as may be found most conducive to the just and speedy determination of the case.

Court may re-
mand case, &c.

SECTION 3. When an appeal shall be taken from a final decree, it shall be lawful for the single justice by whom such decree was made, to make such orders for injunctions and the appointment of receivers, or for continuing the same in force, as he may deem needful for the protection of the rights of parties, until the appeal can be heard by the full court; subject, however, to be modified or annulled, by the order of the full court on motion, after such appeal shall have been taken.

Interlocutory de-
crees.

SECTION 4. From all interlocutory decrees made by a single justice, granting or refusing an injunction, or appointing or refusing to appoint a receiver, any party aggrieved may, in like manner, appeal to the full court; but such appeal shall not suspend the execution of the decree of the single justice, nor be deemed to transfer to the full court the entire cause, or any matter therein, save the question whether the interlocutory decree appealed from, shall be affirmed, reversed or modified.

Revision of de-
crees.

SECTION 5. All interlocutory decrees not appealed from, shall be open to revision on appeals from final decrees, so far as it shall appear to the full court that such final decrees have been materially and erroneously affected thereby; but not otherwise.

Report of evi-
dence to full
court.

SECTION 6. When witnesses are examined orally before a single justice, upon any matter pending before him, in which an appeal may be taken, such oral evidence shall be reported to the full court. And the supreme judicial court shall provide by general rules for some convenient and effectual means of having the same reported, either by the justice before whom the hearing is had, or by some person designated by him for that purpose. No oral evidence shall be exhibited to the full court, but the cause shall be heard, on appeal, upon the same evidence exhibited on the original hearing: *provided, however*, that it shall be competent for the full court to grant leave to parties, in special cases of accident or mistake, to exhibit further evidence before them, and to

Oral evidence ex-
cluded.

Proviso.

provide by general rules, for the conditions under, and modes in which, such additional evidence shall be taken.

SECTION 7. For all hearings, and making, entering and modifying all orders and decrees in equity causes, by a single justice, the supreme judicial court shall be deemed always open, in every county, except on Sundays and holidays established by law. And either a single justice or the full court, sitting in one county, may hear and determine cases pending in another county, and any motion therein, when they deem it needful so to do. And all orders and decrees made on such hearings, shall be transmitted to the clerk in the proper county, to be by him entered.

Court to be deemed always open, except, &c.

SECTION 8. Every order and decree shall bear date as of the day when the same is actually entered by the clerk, and such date shall be minuted thereon by the clerk at the time of entering the same.

Date of order and decrees.

SECTION 9. No process for the execution of any final decree, made by any single justice, shall issue until after the lapse of thirty days, from and after the date of the entry thereof, unless all parties against whom such decree is made, shall waive an appeal, by an entry on the clerk's docket, or by a writing filed in the cause; in which case such process may issue immediately.

Issue of process for execution.

SECTION 10. When a party has, by accident or mistake, omitted to claim an appeal from any final decree within the time allowed for that purpose, he may, at any time within one year after the entry of the decree from which he desires to appeal, apply to the full court, by petition, for leave to appeal; and such leave may be granted in such cases, and upon such terms as shall seem to the court just and equitable.

Petition for leave to appeal.

SECTION 11. The justice by whom a case is heard for final decree, may reserve and report the same for the consideration of the full court; and thereupon the like proceedings and effects shall ensue, as in appeals, from final decrees.

Case may be reserved for full court.

SECTION 12. Appeals from courts of probate shall have the same rights as to hearing, determination and jurisdiction, before a single justice of the supreme judicial court, as equity cases have.

Appeals in probate cases.

SECTION 13. Either a single justice or the full court, shall have power to frame issues in any equity cause pending before them respectively, and direct the same to be tried in the county where such cause is pending, either at the bar of the supreme judicial court, or of the superior court, at his or their discretion; and the same shall be tried accordingly.

Court may frame issues and direct where to be tried.

SECTION 14. This act shall take effect on the fourth day of July next.

Approved April 6, 1859.

Chap. 238 AN ACT RELATING TO SCHOOLS, SCHOOL COMMITTEES AND SCHOOL RETURNS.

Be it enacted, &c., as follows :

Penalty for neglect to raise school money, and elect school committee.

Reports and returns to be made in April.

Penalty.

Forfeitures, where to be paid.

Repeal.

SECTION 1. Any city or town, which shall refuse or neglect to raise money for the support of schools, as required by the laws of this Commonwealth, shall forfeit a sum equal to twice the highest sum which had ever before been voted for the support of schools therein; and any city or town, which shall refuse or neglect to choose a school committee to superintend said schools, shall forfeit a sum not less than five hundred nor more than one thousand dollars; and if the school committee of any city or town shall neglect to make the reports and returns required by law, and transmit the same to the secretary of the Commonwealth, on or before the last day of April in each year, said city or town shall forfeit ten per cent. of its share of the school fund; and if they shall neglect to make and transmit the same as aforesaid, before the first day of June in each year, said city or town shall forfeit its whole share of the school fund, and in addition thereto a sum not less than one hundred nor more than two hundred dollars; and said forfeitures shall be paid into the treasury of the county in which such town is located, and one-fourth thereof shall be for the use of the county, and three-fourths thereof shall be paid, by the treasurer of such county, to the school committee of such town, if any, and if not, to the selectmen of such town, for the support of schools therein.

SECTION 2. The sixtieth section of the twenty-third chapter of the Revised Statutes, and all acts and parts of acts inconsistent with this act, are hereby repealed.

Approved April 6, 1859.

Chap. 239 AN ACT RELATING TO THE BASTARDY PROCESS.

Be it enacted, &c., as follows :

Warrant, where returnable.

May be served in any county.

SECTION 1. The warrant authorized to be issued by the forty-ninth chapter of the Revised Statutes, may be made returnable before the justice who receives the complaint and issues the warrant, or before any other justice in the same county authorized to issue the same, or before any police court in the county authorized to issue the same; and any such warrant shall run into every county in the Commonwealth, and the sheriff or other officer to whom the same may be directed, may pursue and apprehend the party charged, in any county of this Commonwealth, and for this purpose may command aid and exercise the same authority as in his own county.

SECTION 2. When the complainant is an inmate of the hospital at Rainsford Island, or of the house of industry at Deer Island, in the city of Boston, the complaint may be received by any justice of the peace for the county of Suffolk; and in such case the warrant shall be made returnable before the police court of the city of Boston.

Jurisdiction of
Rainsford and
Deer Islands.

SECTION 3. When a complaint has been made, under the provisions of said forty-ninth chapter, or of this act, and the complainant neglects or refuses to prosecute the same, or when any woman, entitled to make a complaint thereunder, shall neglect or refuse to make such complaint at the request of either of the overseers of the poor of the town in which she has her settlement, if any, within the state, or otherwise at the request of either of the overseers of the poor of the town where she resides, or either of the alien and state pauper commissioners, or of the superintendent of either of the state almshouses, or of the hospital at Rainsford Island, or by any person authorized by either of them in writing, or by either of the parents or guardian of said woman, such overseer or other officer or person, parent or guardian, may make such complaint, or prosecute to final judgment such complaint already made, for the benefit of such town, or of the Commonwealth, parent or guardian; and in such cases the bond required by the fourth section of the said chapter, shall be made to and for the benefit of such town, Commonwealth, parent or guardian, in such form as the court shall order.

Complaint may
be made and pro-
secuted by pa-
rent, or over-
seers, &c., in
case, &c.

SECTION 4. In any case commenced or prosecuted under the provisions of said forty-ninth chapter, or of this act, the mother of the child for whose support such proceedings are had, shall be admitted as a witness in support of such complaint, although she may not have made the accusation required by the first and third sections of said forty-ninth chapter; but the fact of such accusation in time of travail may be put in evidence upon trial to corroborate her testimony, and she may be compelled to testify to any facts within her knowledge relating to the subject matter of said complaint, and the admissions she may make or the testimony she may give relating to the subject matter of said complaint, shall never be used against her in any criminal prosecution, except such as may be instituted against her for perjury committed while so testifying.

Mother may tes-
tify.

May be com-
pelled.

SECTION 5. No complaint, commenced under the provisions of said forty-ninth chapter, or of this act, shall be withdrawn, dismissed or settled, by agreement of the mother and the putative father, without the consent of the overseers

No complaint to
be withdrawn or
settled without
consent of over-
seers, &c., un-
less, &c.

of the poor of the town in which the complainant has her settlement or residence, or of one of the state officers named in the third section of this act, or of the parent or guardian of said complainant, unless provision shall be made to the satisfaction of the court to relieve and indemnify such town or the Commonwealth, parent or guardian, of and from all charges that have accrued or may hereafter accrue for the maintenance of such bastard child, and for the costs of complaint and prosecution thereof; and no settlement made by the mother and father, before or after complaint has been made, shall relieve the father from any liability he may be under to any town, or to the Commonwealth, for the support of such bastard child.

State pauper, residence determined.

Jurisdiction.

Warrant, where returnable.

SECTION 6. For the purposes of this act, any woman, an inmate of either of the state almshouses, may be deemed a resident of the place where she had her last or usual place of abode, before she became an inmate thereof; and in case of such inmate, a complaint by her, or in her behalf by a public officer, parent or guardian, as aforesaid, for the support of such bastard child, may be made before any justice of the peace for all the counties, or for the county where she is at the time thereof, or for the county where she has her residence, as aforesaid; and in such cases the warrant shall be made returnable in the county where she resides, as aforesaid, or in the county where the defendant resides.

SECTION 7. This act shall take effect upon its passage.

Approved April 6, 1859.

Chap. 240

AN ACT RELATING TO OFFICERS IN THE STATE PRISON.

Be it enacted, §c., as follows:

Salaries to be paid monthly.

SECTION 1. All officers of the state prison shall receive their salaries in monthly instead of quarterly payments.

SECTION 2. This act shall take effect on the first day of May next.

Approved April 6, 1859.

Chap. 241

AN ACT RELATING TO BLANK WRITS.

Be it enacted, §c., as follows:

Price of blank writs

The price of blank writs issued by police courts, the justices whereof are paid by salaries, for civil business, or by the justices' court of the county of Suffolk, shall be five cents for each writ.

Approved April 6, 1859.

Chap. 242

AN ACT CONCERNING THE HAMPSHIRE AND HAMPDEN RAILROAD COMPANY.

Be it enacted, §c., as follows:

Rates of transportation by Connecticut River

SECTION 1. The Connecticut River Railroad Company is hereby required to transport and deliver merchandise,

passengers or cars destined to or received from any point, by the way of the Hampshire and Hampden Railroad, at the same rate, per mile, as it shall transport and deliver like merchandise, passengers or cars, destined to or received from the same points, by the way of the Hartford and New Haven Railroad, or the Western Railroad. The Western Railroad Corporation is hereby required to transport and deliver merchandise, passengers or cars, destined to or received from any point, by the way of the Hampshire and Hampden Railroad, at the same rate, per mile, as it shall transport and deliver like merchandise, passengers or cars, destined to or received from the same points, by the way of the Hartford and New Haven Railroad, or of the Connecticut River Railroad: and said corporations shall, respectively, permit to said Hampshire and Hampden Railroad Corporation like facilities for the speedy transportation of such merchandise, passengers or cars, and in the interchange and use of cars, so far as may be required to accommodate its business, and also in furnishing passage tickets to passengers who may have come over, or may wish to go over said Hampshire and Hampden Railroad, as they shall, respectively, furnish to the said Hartford and New Haven Railroad Company, and to said Connecticut River Railroad Company: and the like facilities shall be extended by said Hampshire and Hampden Railroad Corporation to the said Western Railroad Corporation, and the Connecticut River Railroad Company, as are secured to said Hampshire and Hampden Railroad Corporation, by the provisions of this act.

Railroad Com-
pany.

By Western Rail-
road Corporation.

Facilities of
transportation to
be equal and re-
ciprocal.

SECTION 2. Either of said corporations which shall wilfully violate the provisions of this act, shall forfeit for each and every offence the sum of five hundred dollars, to be recovered by action of tort by any corporation injuriously affected by such violation.

Penalties for vio-
lation.

Approved April 6, 1859.

AN ACT CONCERNING THE MEDFORD AND CHARLESTOWN RAILROAD COMPANY.

Chap. 243

Be it enacted, §c., as follows:

SECTION 1. The Medford and Charlestown Railroad Company are hereby authorized to erect and maintain a railway or railways, with convenient single or double tracks, in the town of Winchester, in continuation and as a part of their continuous railway or railways built or to be built, in the towns of Medford and Somerville, under chapter three hundred thirty-six, of the acts of the year eighteen hundred fifty-five, as amended by chapter seventeen of the acts of the year eighteen hundred fifty-seven. The powers and duties of the town of Winchester and of its selectmen, as well as

Location extend-
ed

Town of Win-
chester, powers
and duties of.

those of said company with reference to the erection, maintenance and use of such railway or railways, and the owning of land by said company within the limits of Winchester, shall be the same as those of Medford and Somerville and of the selectmen of each, respectively, and of said company, are with reference to the railway or railways of said company, and their owning of land within the limits of Medford and Somerville respectively.

Capital not to exceed \$200,000.

Shares, \$50.

Time extended to May, 1862.

Repeal, except, &c.

SECTION 2. The capital stock of said company shall be represented by shares of fifty dollars each, and shall not exceed two hundred thousand dollars, and no share shall be issued for less than fifty dollars actually paid in.

SECTION 3. The time fixed by section twelve of said chapter three hundred thirty-six, for doing the things thereby required to be done, shall be extended to May of the year eighteen hundred sixty-two.

SECTION 4. Said chapter seventeen, and section eight of said chapter three hundred thirty-six, are hereby repealed, saving, however, all vested rights under each.

Approved April 6, 1859.

Chap. 244 AN ACT TO INCORPORATE THE NEW BEDFORD WOMEN'S REFORM AND RELIEF ASSOCIATION.

Be it enacted, &c., as follows :

Corporators.

Name.

Purpose.

SECTION 1. E. H. Blackler, Eliza Rodman and Elizabeth H. Pitman, of New Bedford, their associates and successors, are hereby made a corporation by the name of the New Bedford Women's Reform and Relief Association, for the purpose of providing a retreat for the reformation, relief and encouragement of those of their sex who have strayed from the path of virtue ; with all the powers and privileges, and subject to all the duties, liabilities and restrictions, set forth in the forty-fourth chapter of the Revised Statutes.

Real and personal estate \$10,000.

SECTION 2. The said corporation may hold, for the purpose aforesaid, real and personal estate to the amount of ten thousand dollars.

SECTION 3. This act shall take effect on its passage.

Approved April 6, 1859.

Chap. 245 AN ACT IN ADDITION TO AN ACT TO AUTHORIZE THE BUSINESS OF LOAN AND FUND ASSOCIATIONS.

Be it enacted, &c., as follows :

Title.

SECTION 1. Every corporation organized, or which may hereafter be organized, under the four hundred and fifty-fourth chapter of the acts of the year one thousand eight hundred and fifty-four, shall have, as part of the title by

which it shall be called and known, the following words, to wit: "Loan and Fund Association;" and no corporation so organized shall take any title, indicating the intention of doing any other business than that of a loan and fund association.

SECTION 2. No corporation organized as aforesaid shall receive deposits of money, otherwise than such as may be paid in by the shareholders of said corporation on their several shares of stock therein.

Deposits of money not received except, &c.

SECTION 3. This act shall take effect from and after its passage.

Approved April 6, 1859.

AN ACT CONCERNING MORTGAGES OF PERSONAL PROPERTY.

Be it enacted, &c., as follows:

Any mortgagor of personal property, or any other person, who shall remove or conceal, or shall aid or abet the removal or concealment of said mortgaged property, or any part thereof, with the fraudulent intent to place the same beyond the control or reach of the mortgagee, or any mortgagor who shall assent to such removal or concealment, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the county jail or house of correction, for a term not exceeding one year.

Approved April 6, 1859.

Chap. 246

Fraudulent concealment of mortgaged property, or assent thereto.

Penalty.

AN ACT TO DEFINE THE RIGHT TO TAKE KELP AND OTHER SEA-WEED BETWEEN HIGH AND LOW-WATER MARK.

Be it enacted, &c., as follows:

SECTION 1. Any person may take and carry away kelp or other sea-weed between high and low-water mark, whilst the same is actually afloat in tide waters: *provided*, that for such purpose no person shall enter on upland or on lawfully inclosed flats without the consent of the owner or lawful occupant thereof.

Kelp may be taken afloat.

Proviso.

SECTION 2. This act shall not be deemed to apply to any city or town in which the subject matter is regulated by special act of the legislature.

Approved April 6, 1859.

Chap. 247

Not to apply in certain cases.

AN ACT CONCERNING PERSONS SENTENCED TO THE STATE PRISON.

Be it enacted, &c., as follows:

SECTION 1. Whenever any person shall be sentenced to imprisonment in the state prison, and to remain in the custody of the sheriff until removed in execution of such sentence, the time during which he shall so remain in the custody of the sheriff, shall be computed as part of the time of sentence imposed by the court, and he shall be discharged from custody at the same time he would have been if re-

Chap. 248

Computation of time of sentence.

Proviso.

moved immediately upon sentence: *provided*, that nothing in this act shall be construed to apply to the case of a sentence limited, to take effect upon the expiration of any previous sentence.

SECTION 2. This act shall take effect from and after its passage.

Approved April 6, 1859.

Chap. 249 AN ACT IN RELATION TO THE CONTROL AND MANAGEMENT OF JAILS AND HOUSES OF CORRECTION.

Be it enacted, &c., as follows:

Sheriff to have charge, except in Suffolk county.

SECTION 1. In the several counties, except Suffolk, the jails and houses of correction, for all purposes contemplated by this act, shall be considered one and the same institution, and the sheriff shall have the custody, rule and charge of the same, and shall keep the same himself, or by his deputy as his master or keeper, for whom he shall be responsible: and the master or keeper shall appoint all other subordinate assistants, employees and officers, for whom he shall be responsible.

Salaries of officers to be fixed by county commissioners.

SECTION 2. The county commissioners of each county shall establish fixed salaries for all officers, assistants and employees of jails and houses of correction, which shall be the full compensation of said officers, assistants and employees, in lieu of all sums now received by them in their office, for board, turnkey fees, perquisites or otherwise; and for such salary, said officers, assistants and employees shall devote their whole time to the discharge of all duties devolving upon them by virtue of their offices, unless released therefrom by the assent of the county commissioners.

Court of common pleas to fix compensation in case, &c.

SECTION 3. If the sheriff of the county deems any salary established by the county commissioners an inadequate compensation, or the master or keeper be dissatisfied with the amount thereof, he may present his petition, showing the facts, to the court of common pleas next to be holden in and for said county, who shall cause notice thereof to be given to the chairman of said county commissioners; and after hearing the matter of said petition, said court shall determine the amount of such allowance, and pass such further order in the premises as law and justice may require.

County commissioners to procure supplies.

SECTION 4. The county commissioners of the several counties shall procure, or cause to be procured, in any manner in which they may designate, all necessary supplies for the said jails and houses of correction, all of which shall be furnished and purchased under the direction of the commissioners and at the expense of the county: *provided, however*, that the county commissioners shall make no extra charge

for said service by commission or in any other manner, nor shall they allow any commission, or other compensation, to the master or keeper of the jail or house of correction, or any other person, for making any such purchases by their authority or in their behalf.

No extra compensation for such service.

SECTION 5. The county commissioners of the several counties shall, on the first Wednesday of January, in the year one thousand eight hundred and sixty, and annually thereafter, appoint to each house of correction two or three discreet and suitable persons (other than the commissioners or the sheriff) of the county to be overseers, and in no case shall their individual compensation exceed one hundred dollars per annum, for services and travel; and said overseers shall have the power to make contracts for work to be done in the houses of correction, with any suitable person disposed to supply materials to be there wrought, and in all such cases it may be stipulated that the parties contracting for the labor of the prisoners shall furnish a suitable person or persons to oversee the labor of the convicts and to instruct them in business or trades: *provided, however*, that persons so selected shall be approved of by the overseers, and they shall not in any manner interfere with the discipline of the jail or house of correction, and shall faithfully observe and conform to all the rules of discipline laid down for the guidance of the officers connected with the jail and house of correction.

County commissioners to appoint special overseers for certain purposes.

Proviso.

SECTION 6. Whenever the overseers of the house of correction, or the county commissioners, shall desire to employ any prisoners to labor upon lands or buildings, connected with the jail or house of correction, or other county buildings, they are hereby empowered to employ, as far as desirable, said convicts, with the assent of the master or keeper of said house of correction.

Prisoners may be employed in certain labors.

SECTION 7. Whenever there are in any county two or more houses of correction, the sentence of prisoners shall be to either house of correction in said county, and the sheriff and county commissioners may classify said convicts as they may deem best; and they may place them in either house of correction, for the term which they were sentenced by the court.

Classification in case of two houses in one county.

SECTION 8. The county commissioners shall have the power to remove any master or keeper from the jail and house of correction, for any neglect of duty, or for wasteful or extravagant use of supplies furnished for the use of said jail and house of correction, by preferring complaint, and showing the facts, to the court of common pleas next to be

County commissioners may remove masters or keepers for neglect, &c.

holden in and for said county ; and after hearing the matter of said complaint, said court shall determine the matter, and such decision shall be final. No overseer, master or keeper, shall be removed prior to the first Wednesday of January next, without complaint as above.

Act not to affect pending suits nor accrued indebtedness.

SECTION 9. This act shall not affect any suit or suits now pending, or which may hereafter be commenced, for compensation for services, or support of prisoners, or other necessary expenses which may have accrued prior to the time when this act shall go into effect.

Approved April 6, 1859.

Chap. 250

AN ACT IN ADDITION TO AN ACT ENTITLED "AN ACT TO REGULATE THE MEASUREMENT OF CHARCOAL," PASSED MAY FOURTH, EIGHTEEN HUNDRED AND FIFTY-THREE.

Be it enacted, §c., as follows :

Penalty for having unsealed measures.

SECTION 1. Every vendor of charcoal who shall have in his possession any basket, tub, box, bin, vessel or measure, of less dimensions than is required by the act to which this is an addition, or which is not sealed as therein provided, with intent to use the same or permit the same to be used for measuring of charcoal, sold or agreed to be sold, shall forfeit and pay the sum of ten dollars for each and every such offence, to be recovered by indictment or complaint before any court or magistrate of competent jurisdiction ; one-half to the use of the city or town where the offence shall be committed, and the other half to the use of the complainant.

Duty of inspectors.

SECTION 2. Every inspector of charcoal baskets, who shall be appointed in conformity to the provisions of the fourth section of said act, shall have power and authority to seize all baskets, tubs, bins, boxes, vessels or measures used or intended to be used as aforesaid, not in accordance with the requirements of said act, and also to arrest, without a warrant, the person in whose possession the same shall be so found, and to take him and the said basket, tub, bin, box, vessel or measure, before the proper tribunal for prosecution ; and whenever, upon a trial or otherwise, before any court or magistrate, such person shall be convicted, said court or magistrate shall order such basket or other measure as aforesaid, to be destroyed.

Approved April 6, 1859.

Chap. 251

AN ACT TO REVIVE THE EASTERN AVENUE CORPORATION.

Be it enacted, §c., as follows :

Chap. 148, 1852 revived.

The corporation created by chapter one hundred and forty-eight, of the acts of eighteen hundred and fifty-two, is hereby

revived, and the parties named in said act, now surviving, are hereby authorized to call a meeting to organize said corporation anew, with all the powers conferred by said act; *provided*, that said meeting be called, and said corporation be organized, within six months from the passage hereof; and *provided, also*, that the avenue, bridge and street, named in said act, shall be completed within five years from the passage of this act; and *provided, also*, that the rights of parties to damages, occasioned by the laying out and construction of said avenue, bridge and street, and the remedies therefor, and for securing the payment of the same, shall in all respects be the same, as are by law provided, in relation to damages occasioned by the laying out and constructing railroads.

Surviving corporations to organize within six months.

Avenue, &c., to be completed in 5 years.

Damages.

Approved April 6, 1859.

AN ACT TO ABOLISH THE SCHOOL DISTRICT SYSTEM.

Be it enacted, &c., as follows :

SECTION 1. The school district system in this Commonwealth is hereby abolished.

Chap. 252

District system abolished.

SECTION 2. As soon as conveniently may be, prior to the first day of January, in the year eighteen hundred and sixty-one, each town in which the district system now exists, shall take possession of all the school-houses, lands, apparatus and other property now belonging to the several school districts therein, and used for school purposes. The property so taken shall be appraised under the direction of the town, and at the next annual assessment thereafter, a tax shall be levied upon the whole town, equal to the amount of said appraisal; and there shall be remitted to the tax payers of each district the said appraised value of its property thus taken. Or the difference in the value of the property of the several districts, may be adjusted in any other manner that may be agreed upon by the parties in interest.

Towns to take possession of all school property.

Disposal of same.

SECTION 3. Upon the abolition of the district system, as herein provided, the corporate powers and liabilities of each district shall continue and remain, so far as may be necessary for the enforcement of its rights and duties, or for carrying out the intention of this act, in the transfer of property or otherwise.

Corporate powers of districts to remain for certain purposes.

SECTION 4. Each town shall hereafter provide and maintain, at the expense of said town, a sufficient number of school-houses, properly furnished and conveniently located for the accommodation of all the children therein, legally entitled to attend the public schools.

Towns to provide and maintain school-houses.

SECTION 5. The school committee shall have and exercise the control and supervision of all the public schools and

Powers of school committees.

school-houses within their respective towns, and shall make such regulations concerning the same, not repugnant to the laws of the Commonwealth, as they may deem expedient.

Act to take effect
July 1, 1860.

SECTION 6. This act shall take effect from and after the first day of July, one thousand eight hundred and sixty.

Approved April 6, 1859.

Chap. 253

AN ACT RELATING TO COUNTY TREASURERS.

Be it enacted, &c., as follows :

County treasur-
ers to receive sal-
aries.

SECTION 1. The treasurers of the several counties of the Commonwealth shall hereafter receive fixed annual salaries, to be paid from the treasury of such counties, in equal quarterly payments ; which salaries shall be in full for all services performed, and in lieu of all commissions, heretofore received by them.

Salaries estab-
lished.

SECTION 2. Until otherwise provided by law, said treasurers shall receive the following salaries, to wit :

The treasurer of the county of Barnstable, five hundred dollars :

The treasurer of the county of Berkshire, eight hundred dollars :

The treasurer of the county of Bristol, eleven hundred dollars :

The treasurer of the county of Dukes county, one hundred dollars :

The treasurer of the county of Essex, fifteen hundred dollars :

The treasurer of the county of Franklin, six hundred dollars :

The treasurer of the county of Hampden, eight hundred dollars :

The treasurer of the county of Hampshire, six hundred dollars :

The treasurer of the county of Middlesex, two thousand dollars :

The treasurer of the county of Norfolk, eleven hundred dollars :

The treasurer of the county of Plymouth, six hundred dollars :

The treasurer of the county of Worcester, fifteen hundred dollars.

Offices.

SECTION 3. Offices for the use of the treasurers shall be furnished by the counties, and shall be in one of the court houses, or other county buildings.

Repeal.

SECTION 4. So much of the fifty-first section of the fourteenth chapter, and so much of the tenth section of the

one hundred and forty-first chapter of the Revised Statutes, as relates to the compensation and commissions of county treasurers, is hereby repealed.

SECTION 5. This act shall take effect from and after the first day of July next.

Approved April 6, 1859.

AN ACT IN RELATION TO INSANE CONVICTS IN THE STATE PRISON.

Be it enacted, &c., as follows:

SECTION 1. It shall be the duty of the physician of the state prison to visit, and give his professional attendance upon all convicts confined therein, who are insane, and he shall direct the removal of such insane convicts to the prison hospital, whenever in his opinion it may be done without detriment to the other persons confined in said hospital; and he shall see that every insane convict has reasonable and sufficient daily exercise outside of his cell or place of confinement, whenever in his opinion it may be safely permitted.

SECTION 2. This act shall take effect from and after its passage.

Approved April 6, 1859.

Chap. 254

Prison physicians to visit and direct transfer and care of insane convicts.

AN ACT CONCERNING STATE PAUPERS.

Be it enacted, &c., as follows:

The board of alien commissioners shall have power to transfer any state pauper that now is or hereafter may be an inmate of either of the state almshouses, or of the hospital at Rainsford Island, or of either of the state lunatic hospitals, from any of the said institutions to either of the others, and also to discharge and send to any state or place where they belong, any of the state paupers from the said institutions, whenever, in the opinion of the commissioners, the interests of the Commonwealth or the inmates aforesaid, may be promoted thereby: *provided*, that in effecting the discharge or transfer of the patients in the lunatic hospitals, they shall have the concurrence of the trustees of said institutions in such changes.

Approved April 6, 1859.

Chap. 255

Alien commissioners to transfer and discharge paupers in certain cases.

Proviso.

AN ACT CONCERNING THE NEW PRISON IN WORCESTER COUNTY.

Be it enacted, &c., as follows:

SECTION 1. The county commissioners for the county of Worcester, are hereby authorized to establish the new prison lately erected by them in the town of Fitchburg, in said county, as one of the jails and houses of correction, for the use of said county.

SECTION 2. This act shall take effect on its passage.

Approved April 6, 1859.

Chap. 256

County commissioners to establish new prison.

Chap. 257 AN ACT RELATING TO THE COMPENSATION AND DUTIES OF SHERIFFS.
Be it enacted, &c., as follows:

Salaries, fixed
and defined.

SECTION 1. The sheriffs of theseveral counties shall receive annual salaries from the treasury of such counties, payable quarterly, as follows: The sheriff of Barnstable, four hundred dollars; the sheriff of Berkshire, eight hundred dollars; the sheriff of Bristol, one thousand dollars; the sheriff of Dukes county, two hundred dollars; the sheriff of Essex, fifteen hundred dollars; the sheriff of Franklin, seven hundred dollars; the sheriff of Hampden, eight hundred dollars; the sheriff of Hampshire, seven hundred dollars; the sheriff of Middlesex, two thousand dollars; the sheriff of Nantucket, two hundred and fifty dollars; the sheriff of Norfolk, one thousand dollars; the sheriff of Plymouth, six hundred dollars; the sheriff of Suffolk, twenty-five hundred dollars; the sheriff of Worcester, eighteen hundred dollars.

Fees to be ac-
counted for and
paid over.

SECTION 2. The said sheriffs shall, annually, on or before the fifteenth day of December, render to the treasurer of their respective counties, under oath, a true account of all fees and moneys which they have received by virtue of their office; and they shall at the same time, pay over the same to said treasurers.

Duties.

SECTION 3. The sheriffs shall attend all courts in their several counties, including meetings of the county commissioners, when ordered so to do by the board, and shall perform all other duties now required of them by law.

Mileage.

SECTION 4. The rate of travel allowed to sheriffs for returning, to the office of the secretary of the Commonwealth, the votes for state, county and district officers, and for representatives to congress, shall be eight cents a mile, to be computed as now required by law.

Repeal.

SECTION 5. Section eighty-nine of chapter fourteen of the Revised Statutes is hereby repealed.

SECTION 6. This act shall take effect on the first Wednesday in January next.

Approved April 6, 1859.

Chap. 258

AN ACT CONCERNING THE TAXATION OF MINORS.

Be it enacted, &c., as follows:

Property of mi-
nors under guar-
dianship, how
taxed.

SECTION 1. All personal property, not exempted from taxation, belonging to minors under guardianship, shall be assessed to the guardian in the town where the minor may reside and have his home, unless the minor shall reside and have his home without the jurisdiction of this Commonwealth; in which case such property shall be taxed to the guardian in the town where the guardian shall reside and have his home.

SECTION 2. The one hundred and sixth chapter of the acts of eighteen hundred and fifty-five, is hereby repealed. Repeal.

SECTION 3. This act shall take effect from and after its passage.

Approved April, 6, 1859.

AN ACT TO REGULATE THE USE OF STEAM-BOILERS.

Chap. 259

Be it enacted, &c., as follows :

The act entitled "An Act to regulate the use of Steam-engines," is hereby amended by inserting the words "and steam-boilers," after the words "steam-engine," wherever those words occur in said act, passed on the seventh day of May, in the year one thousand eight hundred and fifty-two.

Chap. 191, of
1852, amended.

Approved April 6, 1859.

AN ACT IN ADDITION TO AN ACT CONCERNING ELECTRIC TELEGRAPH COMPANIES AND ELECTRIC TELEGRAPHING.

Chap. 260

Be it enacted, &c., as follows :

SECTION 1. Towns which may be otherwise liable in damages to any person for injury to his person or property, occasioned by telegraphic posts or other fixtures erected on highways or town ways, shall not be deemed to be discharged from such liability by reason of the place of erection of said posts or other fixtures having been designated by the selectmen of such towns, in virtue of the act to which this is in addition, or by reason of any thing in said act contained.

Telegraphic posts; towns liable for damages occasioned by.

SECTION 2. The companies or persons erecting such telegraphic posts or fixtures, or to whom they may belong, shall be held to reimburse and repay to said towns the full amount of damages and costs recovered as aforesaid by any party injured.

Companies to reimburse towns.

Approved April 6, 1859.

AN ACT FOR THE FURTHER PROTECTION OF TREES ON HIGHWAYS.

Chap. 261

Be it enacted, &c., as follows :

Whoever shall, negligently or carelessly, suffer any horse or other beast driven by or for him, or any beast belonging to him and lawfully being on the highway or other public way, to break down, destroy or injure any tree, not his own, standing for use or ornament on the said highway, or shall negligently or wilfully, by any other means, break down, destroy or injure any such tree, shall be subject to an action for damages, at the suit of the owner or tenant of the land in front of which such tree stands.

Damages, how recovered.

Approved April 6, 1859.

AN ACT RELATING TO THE ANNUAL RETURNS OF RAILROAD CORPORATIONS.

Chap. 262

Be it enacted, &c., as follows :

It shall be the duty of the secretary of the Commonwealth to prepare, and cause to be printed, an abstract of the

Secretary to prepare abstract, annually, and

transmit to legislature.

reports of the several railroad corporations, showing the leading statistics of the several roads, in form as prescribed by law; together with such other information as he may deem useful, and with said abstracts, to be bound in one volume; and to transmit to the legislature four hundred copies of such volume, on or before the second Wednesday of its session, annually.

Approved April 6, 1859.

Chap. 263

AN ACT RELATING TO SCHOOLS.

Be it enacted, &c., as follows:

Schools, and lectures in certain branches, required in every town.

In every town in the Commonwealth, there shall be kept for at least six months in each year, at the expense of said town, by a teacher or teachers of competent ability and good morals, a sufficient number of schools for the instruction of all the children who may legally attend public school therein, in orthography, reading, writing, English grammar, geography, arithmetic, the history of the United States, and in good behavior. Physiology and hygiene shall be taught by lectures or otherwise, in all the public schools of the Commonwealth in which the school committee shall deem it expedient.

Approved April 6, 1859.

Chap. 264

AN ACT IN ADDITION TO "AN ACT PROVIDING FOR THE ELECTION OF SCHOOL COMMITTEES."

Be it enacted, &c., as follows:

Election of school committees.

SECTION 1. In any town which may have failed to choose a school committee, at the time named in the act to which this is in addition, the election of a school committee, substantially as required by said act, at any subsequent annual town meeting, shall be deemed and taken to be valid.

SECTION 2. This act shall take effect upon its passage.

Approved April 6, 1859.

Chap. 265

AN ACT RESPECTING THE PURCHASE AND DISTRIBUTION OF THE REPORTS OF CASES ARGUED AND DETERMINED IN THE SUPREME JUDICIAL COURT.

Be it enacted, &c., as follows:

Secretary to purchase reports for other States, &c.

SECTION 1. The secretary of the Commonwealth is hereby authorized and directed to purchase a number, not exceeding one hundred copies, of the fifth volume of Gray's Reports of cases argued and determined in the supreme judicial court of Massachusetts, and of all the volumes of said reports which may be hereafter published, when the same are ready for delivery: *provided*, the cost of the same shall not exceed three dollars per volume: and said reports shall be distributed to such states, governments and institutions, as shall

Proviso.

furnish the Commonwealth with publications of a like nature.

SECTION 2. Whenever the clerk of any town or city in this Commonwealth shall certify in writing, and make oath before some person duly authorized to administer oaths in civil cases, that said town or city has not received the fifth volume of Gray's Reports, or any volume of the reports which may hereafter be published, of the decisions of the supreme judicial court, and that said town or city has, in all respects, complied with the requirements of the first section of the one hundred and sixth chapter of the statutes of eighteen hundred and fifty-eight, providing for the preservation of such books, reports and laws as they may receive from the Commonwealth, the secretary of the Commonwealth shall give to said city or town an order upon the publishers of said reports, for such volume: *provided*, he can obtain the same for a price not exceeding the sum of three dollars.

Cities and towns to receive reports upon conditions.

SECTION 3. The secretary of the Commonwealth shall furnish the past volumes of said reports due to towns which have not received them, if such towns shall apply, making oath, as is provided in this act, within six months.

Reports due towns to be furnished, &c.

SECTION 4. The resolve, approved February fourteen, in the year one thousand eight hundred and eleven, authorizing the secretary to purchase and distribute the reports of decisions of the supreme judicial court, the resolve approved February twenty-six, in the year one thousand eight hundred and eleven, further directing the secretary in the purchase of said reports, and all provisions of law inconsistent herewith, are hereby repealed.

Repeal.

Approved April 6, 1859.

AN ACT CONCERNING THE INDIANS OF THE COMMONWEALTH.

Be it enacted, &c., as follows:

SECTION 1. Indians, and the descendants of Indians, domiciled in this Commonwealth, shall be invested with the rights, public and private, and subjected to the duties appertaining by law to citizenship in the Commonwealth, in the manner and at the time hereinafter prescribed.

Rights of citizenship conferred conditionally.

SECTION 2. The governor shall, by and with the advice and consent of the council, appoint a commissioner, whose province shall be to examine into the condition of all Indians, and the descendants of Indians, domiciled in this Commonwealth, and make report to the governor, for the information of the general court, on the following matters, namely:

Commissioner to be appointed.

1. The number of all such persons, their place of abode, their distribution, whether by tribes or otherwise, classifying

Census and classification.

Chap. 266.

them by age and sex, and distinguishing between the married and single; and also the number of persons reputed Indians who are of mixed or other race.

Social condition,
&c.

2. The social and political condition of all such persons, including their municipal, religious and educational organization, and their relation, individual and municipal, to the counties, towns or districts, in which they dwell.

Property, how
held, &c.

3. The economical state of all such persons, including the specification of all property of theirs in lands, and whether the same is held in severalty or in common, and whether now in their own possession, or unlawfully possessed or occupied by others, and in the latter case by what color of alleged title; and also what proportion of such persons are paupers, dependent on the towns in which they dwell, or on the state.

Paupers.

Other facts for in-
formation of leg-
islature.

4. All such facts in the personal or social condition of the Indians of the Commonwealth, as may enable the general court to judge whether they can, compatibly with their own good and that of the other inhabitants of the state, be placed immediately and completely, or only gradually and partially, on the same legal footing as the other inhabitants of the Commonwealth.

Commissioner to
give notice of
hearings.

SECTION 3. The commissioner shall give general notice by due publication in proper newspapers, and special notice, so far as may be practicable, to counties, towns or districts, or other corporations and individuals interested, of times and places for hearing such parties in relation to the matters of inquiry with which he is herein charged.

To report at ad-
journed session of
legislature.

SECTION 4. The commissioner shall prepare and report drafts of bills for the consideration of the general court at its adjourned session, in the view of thus consummating the present provisions for conferring civil and political rights on the Indians of the Commonwealth.

SECTION 5. This act shall take effect from and after its passage.

Approved April 6, 1859.

Chap. 267

AN ACT IN ADDITION TO AN ACT TO AUTHORIZE THE BUSINESS OF BANKING.

Be it enacted, &c., as follows:

Commissioners to
count money of
banks organized
under general
law.

SECTION 1. Before any corporation shall commence the business of banking, under the provisions of chapter two hundred sixty-seven of the acts of eighteen hundred fifty-one, three commissioners, appointed by the governor, shall, at the expense of the corporation, examine and count the money actually in the vaults, and ascertain, by the oaths of a majority of the directors, that such money has been paid

in by the stockholders toward payment of their respective shares, and not for any other purpose, as required by the second section of said chapter; and the commissioners shall return a certificate thereof to the governor.

SECTION 2. This act shall take effect from and after its passage.

Approved April 6, 1859.

AN ACT TO INCORPORATE THE STONEHAM BRANCH RAILROAD COMPANY.

Chap. 268

Be it enacted, &c., as follows:

SECTION 1. J. T. Winchester, John Hill, Allen Rowe, Jr., Cyrus Hay, J. P. Gould, Alpha Richardson, Reuben Locke, Jr., George W. Dike, their associates and successors, are hereby made a corporation, by the name of the Stoneham Branch Railroad Company; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the forty-fourth and thirty-ninth chapters of the Revised Statutes of this Commonwealth, relating to railroads, and to the statutes subsequently passed relating to railroad corporations.

SECTION 2. The said company may locate, construct and operate a railroad, commencing at some convenient point in the village of Stoneham, in the county of Middlesex, and running thence through Woburn, or through Woburn and Winchester, to intersect with the Boston and Lowell Railroad, at some point between the seventh and tenth mile-posts thereon.

SECTION 3. The capital stock of said company shall not exceed fifty thousand dollars, to be divided into shares of one hundred dollars each; and said company may invest and hold such part thereof in real estate, as may be necessary and convenient for the purposes of their incorporation.

SECTION 4. If the said company be not organized, and the location of their said road filed with the county commissioners of the said county of Middlesex, within one year from the passing of this act, and if said road shall not be constructed within two years from said time, this act shall be void.

SECTION 5. The said Stoneham Branch Railroad Company, may unite their railroad with the Boston and Lowell Railroad, at the point of intersection therewith mentioned in the second section; and said Stoneham Branch Railroad Company may enter upon, and use, the tracks of the Boston and Lowell Railroad Company, upon the terms, and subject to the provisions, of the statutes of this Commonwealth, relating to railroads and railroad corporations.

Power to consolidate with Lowell Railroad on conditions.

SECTION 6. The said Stoneham Branch Railroad Company are hereby authorized and empowered to transfer their rights, privileges and franchise under this charter, to the Boston and Lowell Railroad Corporation; and said Boston and Lowell Railroad Corporation are hereby authorized to receive and hold the same, whenever a majority in interest, of the stockholders of the two corporations respectively, shall elect so to do; and for this purpose the Boston and Lowell Railroad Corporation may increase their capital stock, by new shares to the amount of fifty thousand dollars.

Lowell Railroad Corporation may increase capital.

SECTION 7. This act shall take effect from and after its passage.

Approved April 6, 1859.

Chap. 269

AN ACT ESTABLISHING THE SALARY OF THE MESSENGER IN THE OFFICE OF THE SECRETARY OF THE COMMONWEALTH.

Be it enacted, &c., as follows:

Salary fixed.

SECTION 1. The salary of the messenger in the office of the secretary of the Commonwealth shall be eight hundred dollars per annum, to be computed from the first day of April, instant.

Repeal.

SECTION 2. All acts and parts of acts inconsistent herewith, are hereby repealed.

SECTION 3. This act shall take effect from and after its passage.

Approved April 6, 1859.

Chap. 270

AN ACT IN ADDITION TO AN ACT MAKING APPROPRIATIONS FOR THE MAINTENANCE OF THE GOVERNMENT DURING THE CURRENT YEAR, AND FOR OTHER PURPOSES.

Be it enacted, &c., as follows:

Treasurer to substitute money or United States stocks in lieu of scrip, for claim of State of Maine.

In lieu of transferring to the State of Maine the scrip authorized to be transferred to the State of Maine in the act to which this is in addition, the treasurer and receiver-general is hereby authorized and directed, (in case such payment shall be preferred by said State of Maine,) to pay or deliver to the State of Maine, to such officer as shall be duly authorized to receive the same, such proportionate part of all moneys, or stocks of the United States, to be received for said claim as the said State of Maine is entitled to receive under the provisions of said act of the year one thousand eight hundred and nineteen, deducting reasonable expenses.

Approved April 6, 1859.

Chap. 271

AN ACT SUPPLEMENTARY TO AN ACT MAKING APPROPRIATIONS FOR THE MAINTENANCE OF THE GOVERNMENT DURING THE CURRENT YEAR, AND FOR OTHER PURPOSES.

Be it enacted, &c., as follows:

Additional appropriations for 1859.

SECTION 1. The sums hereinafter mentioned, are appropriated and shall be allowed and paid out of the treasury

of the Commonwealth, from the ordinary revenue, except where herein otherwise provided, upon the warrants of the governor, for the purposes specified, in addition to the appropriations contained in chapter seventy-seven of the acts of the present year, to meet the current expenses of the year ending on the thirty-first day of December, one thousand eight hundred and fifty-nine, that is to say :

For books, stationery, printing and advertising ordered by the sergeant-at-arms for the legislature, a sum not exceeding three hundred dollars.

Books, stationery, &c., for legislature.

For the salary of the land agent, one thousand dollars.

Land agent's salary and expenses.

For the incidental expenses of the land agent, a sum not exceeding seventy-five dollars.

For corrections in the plates of the state map, in accordance with the resolves of the year one thousand eight hundred and fifty-seven, chapter eighty-two, a sum not exceeding one hundred dollars.

Plates of state map.

For the state library, in accordance with the resolves of one thousand eight hundred and fifty-seven, chapter nine, two thousand three hundred dollars, to be expended under the direction of the trustees and librarian ; and all sums required for the completion and printing or now due for printing of the catalogue, shall be paid from this appropriation.

State library.

For additional assistance in the library, in accordance with the resolves of the year one thousand eight hundred and fifty-seven, chapter forty-nine, a sum not exceeding five hundred dollars.

Library, additional assistance in.

For repairs, improvements and furniture of the state house, in addition to the appropriation made for this purpose in chapter seventy-seven of the acts of the present year, a sum not exceeding sixteen hundred dollars.

State house, repairs, &c.

For printing and binding, for the governor and council, including the expense of a manual, the sum of three hundred dollars.

Governor and council, printing, &c.

For the contingent expenses of the council, a sum not exceeding eight hundred dollars : *provided*, that no part of the appropriation made in chapter seventy-seven of the acts of the present year for the contingent expenses of the council, senate and house of representatives, shall be applied to the contingent expenses of the council.

Council, contingent expenses.

The appropriation made in chapter seventy-seven of the acts of the present year for the contingent expenses of the council, senate and house of representatives, shall be applied, so far as may be necessary for the purpose, to the contingent expenses of the senate and of the house of representatives,

Appropriation in chap. 77 further applied.

and to pay any necessary expenses in and about the state house.

Committee witnesses. For the expense of summoning witnesses to the general court, a sum not exceeding one hundred dollars.

Blue-book and general laws. For printing the blue-book, a sum not exceeding twelve hundred dollars, and for printing the pamphlet edition of the general laws, a sum not exceeding one thousand dollars; each of said sums to be in addition to the sums appropriated for these purposes in chapter seventy-seven of the acts of the present year.

Department of agriculture. The unexpended balance of the sum authorized to be expended by the secretary of the board of agriculture, by the resolve of the year one thousand eight hundred and fifty-four, chapter thirty-three, is hereby appropriated for the purposes therein specified, amounting to the sum of six hundred and twenty-one dollars and five cents.

Rhode Island boundary. For counsel fees in the suit pending in the supreme court of the United States, between the Commonwealth and the State of Rhode Island, to be expended under the supervision of the attorney-general, a sum not exceeding five thousand dollars.

Back Bay commissioners. For compensation and expenses of the commissioners on the Back Bay, a sum not exceeding seven thousand dollars; said sum to be paid from the moiety of the proceeds of sales already made, which by the resolves of the year one thousand eight hundred and fifty-seven, chapter seventy, is applicable to improvements; and the residue of said moiety shall be subject to the provisions of said chapter seventy.

Insurance commissioners for clerk hire. For clerical assistance for the insurance commissioners, a sum not exceeding one thousand dollars.

Commissioners on Indian titles in Plymouth county. For the compensation of the commissioners to examine into titles to Indian lands in Plymouth county, in accordance with the resolve of the year one thousand eight hundred and fifty-seven, chapter sixty-six, a sum not exceeding two hundred dollars.

Registers of insolvency and of probate. For the payment of the salaries of the several registers of insolvency, after the first day of January in the present year, one hundred and fifty dollars, and for the like salaries of the registers of probate, the sum of one hundred and seventy-five dollars.

State almshouses and Rainsford Island hospital. For the current expenses of the several state almshouses and for the hospital at Rainsford Island, in addition to the sums appropriated for these purposes in chapter seventy-seven of the acts of the present year, the following sums, viz. :

State almshouse at Tewksbury, a sum not exceeding thirty-three thousand dollars; state almshouse at Monson, a sum not exceeding twenty-seven thousand dollars; state almshouse at Bridgewater, a sum not exceeding twenty-seven thousand dollars; and for the hospital at Rainsford Island, a sum not exceeding fourteen thousand dollars.

For the current expenses of the state reform school for boys, at Westborough, a sum not exceeding forty thousand dollars; said sum to be expended solely for the current expenses of said institution; and all other sums received by said institution from towns and cities, for the support of the boys in said school, shall be paid into the treasury of the Commonwealth; and no moneys appropriated by this act shall be expended by the trustees of said school to pay for the recent improvements at said institution, made without the consent of the legislature, and without authority of law.

Reform school.

For the transportation of state paupers, to be expended by the alien commissioners, for the transportation of state paupers, in addition to the appropriation of two thousand dollars for this purpose, made in chapter seventy-seven of the acts of the present year, a sum not exceeding six thousand dollars: *provided*, that the same shall be expended only in the transportation of state paupers from the several hospitals and almshouses; and a detailed account of such expenditures shall be rendered to the auditor on the first day of every month.

Transportation of paupers.

For Indians, a sum not exceeding three thousand dollars.

Indians.

For the salaries of the officers of the several state lunatic hospitals, for the nine months ending on the thirtieth day of September in the present year, the sums following:

Lunatic hospitals.

The hospital at Worcester, the sum of two thousand five hundred and fifty dollars.

Salaries

The hospital at Taunton, the sum of two thousand four hundred and eighteen dollars and seventy-five cents.

The hospital at Northampton, the sum of two thousand and twenty-five dollars.

For the support and relief of state paupers, otherwise than in the three almshouses and in the hospital at Rainsford Island, a sum not exceeding sixty thousand dollars.

State paupers.

To reimburse to the treasurers of the several counties two-thirds of the costs of criminal prosecutions, in the manner prescribed by law, a sum not exceeding one hundred and fifty thousand dollars.

County treasurers, reimbursement.

For the compensation and expenses of the alien commissioners, and agents employed by them according to law, a sum not exceeding seven thousand five hundred dollars.

Alien commissioners and agents.

Superintendent
of alien passen-
gers.

For the compensation and expenses of the superintendent of alien passengers, a sum not exceeding seven thousand dollars.

Coroners' in-
quests.

For the expenses of coroners' inquests, a sum not exceeding eight hundred dollars.

Emergency fund.

The appropriation made in the twenty-second chapter of the acts of the year one thousand eight hundred and fifty-eight, for the emergency fund, is hereby made applicable to and may be used during the present political year, for the purposes and under the provisions and limitations mentioned in said chapter.

State house ex-
penses.

SECTION 2. The appropriation for contingent expenses of the council, senate and house of representatives, contained in chapter seventy-seven of the acts of the present year, may be applied to pay any necessary expenses in and about the state house, including repairs; and not more than fifty dollars thereof may be applied to pay necessary expenses in or about the house numbered twelve, Hancock Street, in the city of Boston; the whole appropriation being subject to the conditions attached thereto in said chapter seventy-seven.

House in Han-
cock Street.

State of Maine
scrip to be ex-
changed for Uni-
ted States stock,
or money.

SECTION 3. The treasurer of the Commonwealth, with the consent of the governor and council, is hereby authorized to surrender to the state of Maine, or to such officer or agent as may be authorized to receive the same on behalf of said state, an amount of the scrip of said state, now constituting part of the Massachusetts School Fund, which shall be equivalent, at its market value, to the proportion of the moneys or scrip of the United States, due to said state of Maine, according to the provisions of the first section of the one hundred and sixty-first chapter of the acts of the year one thousand eight hundred and nineteen, and which shall be received by this Commonwealth, in reimbursement of expenses incurred during the late war with Great Britain, in the protection of the maritime frontier; the said state of Maine to pay, from their said proportion, all charges incurred on account of said claim by said state. The treasurer is hereby authorized and directed to replace the amount of scrip so taken from said school fund, with an equivalent amount of the scrip of the United States, or in case such claim shall be paid in money, to invest an equivalent amount of money according to law, and place the same to the credit of said school fund.

SECTION 4. This act shall take effect from and after its passage.

Approved April 6, 1859.

AN ACT MAKING APPROPRIATIONS TO MEET CERTAIN EXPENDITURES
AUTHORIZED THE PRESENT YEAR, AND FOR OTHER PURPOSES. *Chap. 272*

Be it enacted, &c., as follows :

SECTION 1. The sums hereinafter mentioned are appropriated, and shall be allowed and paid out of the treasury of the Commonwealth, from the ordinary revenue, upon the warrants of the governor, for the purposes specified in certain acts and resolves, for the present year, herein cited, as follows, viz. :

In the act, chapter thirty-three, incorporating the Martha's Vineyard Agricultural Society, the sum of two hundred dollars.

Appropriations
for 1859.

Martha's Vine-
yard Agricultu-
ral Society.

In the act, chapter sixty-four, to increase the salary of the assistant-librarian and clerk of the secretary of the board of education, the sum of two hundred dollars.

Salary of assist-
ant-librarian.

In the act, chapter one hundred thirty-three, to establish the salary of the second clerk in the office of the secretary of the Commonwealth, the sum of two hundred dollars.

Second clerk in
secretary's office.

In the resolve, chapter four, in aid of the Massachusetts Charitable Eye and Ear Infirmary, the sum of two thousand five hundred dollars.

Eye and Ear In-
firmiry.

In the resolve, chapter five, in relation to repairs in the state prison, the sum of five thousand seven hundred and fifty dollars.

State prison, re-
pairs.

In the resolve, chapter nine, in relation to the library of the state prison, the sum of three hundred dollars.

Supplying li-
brary, and en-
largement of
inclosure.

In the resolve, chapter thirteen, providing for the enlargement of the inclosure of the state prison, the sum of five thousand five hundred dollars.

In the resolve, chapter fourteen, in favor of the city of Cambridge, the sum of one hundred fifty-six dollars.

City of Cam-
bridge.

In the resolve, chapter fifteen, in favor of David F. Brown, the sum of sixty-five dollars fifty cents.

David F. Brown.

In the resolve, chapter sixteen, in favor of Levi Baker, the sum of one thousand five hundred dollars.

Levi Baker.

In the resolve, chapter seventeen, in aid of the Massachusetts School for Idiotic and Feeble-minded Youth, the sum of two thousand five hundred dollars.

School for Idiots.

In the resolve, chapter eighteen, in favor of Samuel H. Reed, the sum of one hundred and fifty dollars.

Samuel H Reed

In the resolve, chapter nineteen, concerning the purchase of books and engravings, for the state lunatic hospital at Northampton, the sum of two hundred dollars.

Hospital at
Northampton.

In the resolve, chapter twenty, relative to school books for the Marshpee Indians, the sum of fifty dollars.

Marshpee In-
dians.

- Industrial school,
for new building. In the resolve, chapter twenty-two, concerning the erection of an additional building for the state industrial school at Lancaster, the sum of nine thousand dollars.
- West Springfield. In the resolve, chapter twenty-six, in favor of the town of West Springfield, the sum of two hundred twenty-nine dollars and twenty cents.
- Samuel L. Harris. In the resolve, chapter twenty-seven, in favor of Samuel L. Harris, the sum of one thousand two hundred sixty-two dollars eighty-five cents.
- W. H. Luce. In the resolve, chapter thirty, in favor of W. H. Luce, the sum of two hundred fifteen dollars fifty cents.
- Issachar J. Elliott. In the resolve, chapter thirty-one, in favor of Issachar J. Elliott, the sum of one hundred twenty dollars fourteen cents.
- Suppression of counterfeiting. In the resolve, chapter thirty-two, to provide for granting aid for the suppression of counterfeiting bank bills and coin, the sum of one thousand five hundred dollars.
- School for idiots, completing building. In the resolve, chapter thirty-four, making an appropriation for completing a building for the Massachusetts School for Idiotic and Feeble-minded Youth, the sum of four thousand dollars.
- John McGrath. In the resolve, chapter thirty-five, in favor of John McGrath, the sum of two hundred dollars.
- State house, repairs. In the resolve, chapter thirty-seven, in relation to certain repairs on the state house, the sum of three thousand three hundred dollars.
- Benjamin Smith. In the resolve, chapter thirty-nine, in favor of Benjamin Smith, a soldier of the revolution, the sum of one hundred dollars.
- T. F. Rollins. In the resolve, chapter forty, in favor of T. F. Rollins, the sum of three hundred sixty-seven dollars fifty-nine cents.
- Martin Wheelock. In the resolve, chapter forty-one, on the petition of Martin Wheelock, the sum of fifty dollars.
- Charles Mattoon. In the resolve, chapter forty-two, on the petition of Charles Mattoon, the sum of one hundred thirty-five dollars.
- Town of Dudley. In the resolve, chapter forty-three, in favor of the town of Dudley, the sum of one hundred twenty-six dollars twelve cents.
- H. B. Fernald. In the resolve, chapter forty-four, in favor of Henry B. Fernald, one hundred fifty dollars.
- Representatives' hall, ventilation. In the resolve, chapter forty-five, to secure the better ventilation of the representatives' hall, the sum of one thousand dollars.
- Secretary board of agriculture. In the resolve, chapter forty-six, establishing the salary of the secretary of the board of agriculture, the sum of five hundred dollars, in addition to the appropriation made for

this purpose, in the act of the present session, chapter seventy-seven.

In the resolve, chapter forty-nine, in aid of the hospital at Northampton, the sum of six thousand dollars.

Hospital at Northampton.

In the resolve, chapter fifty-one, in favor of the Washingtonian Home, the sum of one thousand dollars.

Washingtonian Home.

In the act, chapter one hundred and forty-eight, establishing the compensation of bank commissioners, the sum of one thousand seven hundred dollars; in addition to the appropriation for mileage and compensation of the bank commissioners, made in chapter seventy-seven of the acts of the present session of the general court.

Bank commissioners, mileage and compensation

In the act entitled An Act establishing the Superior Court, for the salaries of the justices of said court, for the six months ending on the thirty-first day of December in the present year, the sum of seventeen thousand six hundred dollars. And the salaries of the justices of the court of common pleas shall cease on and after the thirtieth day of June in the present year.

Justices Superior and Common Pleas Courts.

In the resolve, chapter fifty-two, to enforce payment of debts due to the Commonwealth on account of sales of the public lands in Maine, for the compensation and expenses of the committee therein named, a sum not exceeding one thousand five hundred dollars.

Debts for Maine lands.

In the resolve, chapter forty-seven, concerning the flowage of lands in the towns of Concord, Sudbury, Wayland, Bedford and Carlisle, for the compensation and expenses of the committee therein named, a sum not exceeding seven hundred dollars.

Committee on flowage, &c., in Concord, Sudbury, &c.

In the resolve, chapter fifty-three, in favor of the guardian of the tribe of Punkapog Indians, the sum of one hundred dollars.

Punkapog Indians.

In the resolve, chapter fifty-five, concerning the preservation of certain papers, the sum of one hundred and fifty dollars.

Preservation of papers

In the resolve concerning flats and shores belonging to the Commonwealth, for the expenditures therein authorized, a sum not exceeding one thousand dollars.

Flats and shores.

In the act, chapter one hundred and sixty-four, to establish the salary of the clerk in the office of the adjutant and quartermaster-general, the sum of two hundred dollars, in addition to the sum already appropriated for said salary.

Clerk in adjutant-general's office.

In the resolve, chapter fifty-eight, in favor of deserving pupils of the state reform school and state industrial school, a sum not exceeding one thousand dollars.

Pupils in Reform and Industrial Schools.

- North Brookfield. In the resolve, chapter fifty-seven, in favor of the town of North Brookfield, the sum of one hundred and forty-four dollars.
- Preacher of election sermon. In the resolve, chapter fifty-nine, in addition to a resolve passed February tenth, eighteen hundred and sixteen, in addition to the appropriation already made, for the purpose to which said resolve refers, the sum of one hundred dollars.
- Watchmen of state house. In the act to establish the pay of the watchmen of the state house, the sum of two hundred dollars, in addition to the appropriation already made for this object.
- John C. Willey. In the resolve in favor of John C. Willey, the sum of three hundred and thirty-two dollars and eleven cents.
- Jonathan Day. In the resolve in favor of Jonathan Day, the sum of ninety-eight dollars and twelve cents.
- Farmers' clubs. In an act relating to farmers' clubs, a sum not exceeding two thousand dollars.
- Sally Burr. In the resolve, chapter sixty, in favor of the guardian of the Punkapog tribe of Indians, for the benefit of Sally Burr, the sum of fifty-two dollars.
- State prison. In the resolve, chapter sixty-one, in relation to the state prison, the sum of three hundred dollars.
- Marshpee Indians. In the resolve, chapter sixty-three, in favor of the Marshpee Indians, forty-seven dollars eighteen cents.
- Company D, 6th regiment, 3d brigade, 2d division. In the resolve, chapter sixty-two, for the payment of military bounty to Company D, sixth regiment, third brigade, second division of Massachusetts volunteer militia, the sum of one hundred and eighty dollars fifty cents.
- State almshouses. In the resolve, chapter sixty-four, relating to the better protection of state almshouses from fire, the sum of one thousand dollars.
- Smith, Knight and Tappan. In the resolve, chapter sixty-five, in favor of Smith, Knight and Tappan, the sum of six hundred sixty-seven dollars and fifty cents.
- Artimun Staples. In the resolve, chapter sixty-six, in favor of Artimun Staples, the sum of sixty dollars.
- Reporters' seats. In the resolve, chapter sixty-seven, relating to reporters' seats in the house of representatives, the sum of three hundred dollars.
- L. P. Rowland. In the resolve, chapter sixty-eight, in favor of L. P. Rowland, the sum of three hundred ninety-nine dollars forty-four cents.
- Robert B. Caverly. In the resolve, chapter seventy-two, in favor of Robert B. Caverly, the sum of four hundred ninety-eight dollars twenty-six cents.
- Committee on statutes. For the compensation and mileage of the committee to sit in the recess of the general court, to whom was referred the

report of the commissioners on revision of the statutes, a sum not exceeding thirteen thousand dollars.

For contingent and incidental expenses of said committee, a sum not exceeding two thousand dollars.

Expenses of same.

In the resolve, chapter seventy-five, in favor of Benjamin Walker, the sum of seventy-five dollars.

Benjamin Walker.

In the resolve, chapter seventy-six, in favor of William Tewksbury, the sum of one thousand two hundred dollars.

William Tewksbury.

In the act, chapter one hundred seventy-eight, relating to the salary of the register of probate and insolvency for the county of Dukes county, the sum of seventy-five dollars, in addition to the appropriation for this object, already made.

Register probate and insolvency. Dukes county.

In the resolve in favor of Jonathan Day, the sum of ninety-eight dollars twelve cents.

Jonathan Day.

In the resolve, chapter seventy-eight, concerning insurance commissioners, the sum of one thousand one hundred and sixty-four dollars eighty-two cents.

Insurance commissioners.

For indexing and printing the special laws since the year one thousand eight hundred and forty-eight to the present time, and superintending the same, a sum not exceeding ten thousand dollars.

Special laws.

In the resolve in aid of the New England Moral Reform Society, the sum of one thousand dollars.

New England Moral Reform Society.

In the resolve in aid of the Washingtonian Home, in addition to one thousand dollars already appropriated, the sum of two thousand dollars.

Washingtonian Home.

In an act to establish the salary of the messenger in the office of the secretary of the Commonwealth, the sum of eight hundred dollars.

Messenger secretary's office.

In the resolve in favor of Francis N. Luce, the sum of one hundred and four dollars.

Francis N. Luce.

In the resolve for paying the expenses of serving an executive warrant, the sum of one hundred and twenty dollars.

Executive warrant.

In an act respecting the purchase and distribution of the reports of cases argued and determined in the supreme judicial court, a sum not exceeding four thousand dollars.

Law decisions.

In the act fixing the salaries of the district-attorneys of the several districts, for the salary of district-attorney of the north-western district, in addition to the appropriation already made for that purpose, the sum of two hundred dollars.

North-western district-attorney.

In the resolve in favor of the Hassanamisco Indians, the sum of one thousand dollars.

Hassanamisco Indians.

In the resolve in favor of Moses Brown, the sum of seventy-five dollars.

Moses Brown.

Town of Sunderland.

In the resolve on the petition of the selectmen of the town of Sunderland, the sum of one hundred and thirty-five dollars forty-nine cents.

New Salem.

In the resolve authorizing the treasurer of the Commonwealth to furnish the town of New Salem with a set of standard weights, measures and balances, a sum not exceeding one hundred and fifty dollars.

Commissioners for revision of statutes.

In the resolve relating to the commissioners for the revision of the statutes, the sum of six thousand dollars.

State house. Repairs and furniture.

SECTION 2. There shall be also allowed and paid a sum not exceeding seven hundred dollars, for alterations, repairs and furniture for the state house, in accordance with the joint order of the senate and house of representatives, passed by the senate on the twenty-fourth day of February last, and by the house on the twelfth day of March, to be disbursed under the order of the sergeant-at-arms; and said sum is hereby appropriated therefor, in addition to the sum heretofore appropriated, for the repairs of the state house.

Rhode Island boundary, surveying, &c.

SECTION 3. The appropriation for counsel fees in the suit pending between this Commonwealth and the State of Rhode Island, contained in an act of the current year, entitled "An Act supplemental to an Act making appropriations for the maintenance of the Government during the present year," may be taken to include the expenses of surveying, and the incidental expenses attending the conduct and negotiation of said suit.

Diminution of salaries.

SECTION 4. In case any salary, for the payment of which any appropriation has been heretofore or may hereafter be made, shall be diminished by due authority, no more money shall be paid under such appropriation than the amount of such diminished salary.

"Incidental expenses" defined.

SECTION 5. The term "incidental expenses," wherever used in any act of appropriation heretofore, or which may hereafter be passed, shall be held to include postage, printing and stationery, all charges for which, in each department of the government, or by any committee for whom an appropriation shall be made, "for incidental expenses," shall be defrayed in accordance with the appropriations for those objects provided in such acts.

Second or last appropriation to supersede.

SECTION 6. In case any appropriation is made in any act of appropriation heretofore, or which may hereafter be passed, for a service or object for which a different or larger appropriation may have been made in some act or resolve previously passed, the appropriation last made shall be held to supersede the other, and so much of the previous act or

resolve as provides the larger or different appropriation shall be held void and of no effect.

SECTION 7. This act shall take effect from and after its passage.

Approved April 6, 1859.

AN ACT SUPPLEMENTAL TO AN ACT MAKING APPROPRIATIONS TO MEET CERTAIN EXPENDITURES AUTHORIZED THE PRESENT YEAR, AND FOR OTHER PURPOSES.

Chap. 273

Be it enacted, &c., as follows:

SECTION 1. There is hereby appropriated, and shall be allowed and paid out of the treasury of the Commonwealth, from the ordinary revenue, upon the warrant of the governor, for the purposes mentioned in a "Resolve for reprinting a Report of the Insects of New England, which are injurious to Vegetation," the sum of eight thousand dollars.

Appropriation
for reprinting
Report on In-
sects.

SECTION 2. This act shall take effect from and after its passage.

Approved April 6, 1859.

RESOLVES,

GENERAL AND SPECIAL.

RESOLVE CONCERNING THE CONGREGATIONAL LIBRARY ASSOCIATION. *Chap. 1.*

Resolved, That no act of the Congregational Library Association, incorporated by the legislature on the twelfth day of April, eighteen hundred and fifty-four, shall be held to be invalid by reason of any defect in the notice of the first meeting of said corporation. *Approved February 4, 1859.*

Acts legalized.

RESOLVE AUTHORIZING THE TREASURER TO BORROW MONEY IN ANTICIPATION OF THE REVENUE. *Chap. 2.*

Resolved, That the treasurer be, and he hereby is, authorized to require of the several banks of this Commonwealth, a loan of such sum or sums of money as may from time to time be necessary for the payment of the ordinary demands upon the treasury within the current year; or he may borrow in like manner of the commissioners of the Western Railroad sinking fund, such moneys as said commissioners may have on hand uninvested, and said commissioners are hereby authorized to loan the same to the treasurer aforesaid, under the terms of this resolve; and he shall repay any sum which he may borrow, as soon as money sufficient for the purpose shall be received into the treasury: *provided*, that the whole amount of the temporary loan authorized by this resolve and previous resolves, shall not at any time exceed five hundred thousand dollars. *Approved February 7, 1859.*

Treasurer authorized to borrow of banks, &c.

Proviso.

RESOLVE IN RELATION TO THE MASSACHUSETTS CLAIM UPON THE FEDERAL GOVERNMENT. *Chap. 3.*

Resolved, That the governor, by and with the advice and consent of the council, be authorized to employ an agent to co-operate with the agent employed by the State of Maine, in the prosecution of the claim of this Commonwealth upon the government of the United States; that the compensation

Governor to employ agent.

Compensation.

Proviso. of such agent be fixed by the governor and council: *provided*, such agent shall not be appointed to serve longer than during the present session of congress.

Approved February 11, 1859.

Chap. 4.

RESOLVE IN AID OF THE MASSACHUSETTS CHARITABLE EYE AND EAR INFIRMARY.

\$2,500, to be expended under direction of trustees.

Resolved, That the sum of twenty-five hundred dollars be, and the same is hereby allowed from the treasury of the Commonwealth, to the Massachusetts Charitable Eye and Ear Infirmary, to be expended during the current year, under the direction of the trustees, for the charitable purposes of said infirmary: *provided, however*, that the said trustees report to the legislature during the month of January next, a detailed account of the manner in which this appropriation has been expended.

Proviso.

Approved February 14, 1859.

Chap. 5.

RESOLVE IN RELATION TO REPAIRS IN THE STATE PRISON.

\$5,750 for repairs on state prison.

Resolved, That the sum of five thousand seven hundred and fifty dollars, be allowed and paid out of the treasury of the Commonwealth, for the purpose of improving the light and air in the north wing of the state prison; said sum to be expended in placing in the aforesaid wing fourteen large windows, similar to those in the other or new part of the prison, and in extending the wall on the outside, so as to protect said windows; the amount so allowed to be expended under the direction of the warden and inspectors of the prison: *provided*, that no charge shall be made, by said warden and inspectors, for services therefor.

Proviso.

Approved February 15, 1859.

Chap. 6.

RESOLVE IN RELATION TO THE TRANSPORTATION OF STATE PAUPERS.

\$2,000 for transportation of state paupers.

Resolved, That there be allowed and paid out of the treasury, the sum of two thousand dollars, to be expended by the alien commissioners for the transportation of state paupers during the quarter ending the thirty-first day of March, in the year one thousand eight hundred and fifty-nine; and a detailed account of such expenditures shall be rendered to the auditor on the first day of every month.

Approved February 23, 1859.

Chap. 7.

RESOLVES CONCERNING THE REVISION OF THE STATUTE LAWS.

Legislature to complete as a code of laws.

Resolved, That the proposed revision of the general statutes of the Commonwealth is so far advanced by the com-

missioners, that it is expedient that the legislature should proceed to complete the same as a code of laws.

Resolved, That for this purpose the legislature will hold a special session on the first Wednesday of September next. Special session.

Resolved, That a joint special committee of eleven on the part of the senate, and twenty-eight on the part of the house, to whom shall be added the president of the senate and the speaker of the house, be appointed to examine and consider, during the recess of the legislature, the report of the commissioners appointed "to consolidate and arrange the general statutes of the Commonwealth," with power to propose such amendments and alterations in existing laws, as such committee may deem expedient. Joint special committee, how constituted, duties, &c.

Resolved, That this committee hold their sessions in the senate chamber, or other convenient room in the state house, and that they have power to elect their chairman by ballot; to require the services of such officers of the legislature, and do such other acts as they deem necessary for the convenient dispatch of their business and proceedings, of all which they shall keep an accurate journal. Place of meeting, election of chairman, &c.

Resolved, That if upon the assembling of the committee, or afterwards, any vacancy should occur therein from any cause, the remaining members shall fill the vacancy by ballot, from the branch of this legislature whose member shall be absent from his duties. Vacancies, how filled.

Resolved, That the "commissioners for the arrangement and consolidation of the statutes," or so many of them as may be necessary, are hereby directed to attend the sessions of the committee when thereto requested, to give such explanations of their arrangement of the statutes and of the modifications and changes, and of the reasons which led thereto, which they have reported, as will fully aid the committee in the consideration of their report, and farther to furnish such other information as they may have as to the expediency of any proposed alteration of existing laws. Commissioners to attend sessions, &c.

Resolved, That the committee report in print, and their report, together with the journal of the committee, be laid before the legislature at the special session thereof. Committee to report in print.

Resolved, That all general laws passed by this legislature, be referred to this committee, to be revised and incorporated, in their appropriate chapters, into the general code of laws. General laws of this legislature referred to, &c.

Approved February 23, 1859.

RESOLVE IN AID OF THE MASSACHUSETTS TEACHERS' ASSOCIATION. Chap. 8.

Resolved, That there be allowed and paid, in the month of August, one thousand eight hundred and fifty-nine, to \$300 to Massachusetts Teachers' Association.

the president or treasurer of the Massachusetts Teachers' Association, the sum of three hundred dollars, to be applied to the purposes of said association; the said amount to be paid out of the moiety of the income of the school fund, applicable to educational purposes.

Approved February 26, 1859.

Chap. 9.

§300 to library of
state prison.

RESOLVE IN RELATION TO THE LIBRARY OF THE STATE PRISON.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, the sum of three hundred dollars, to replenish the library of the state prison, for binding, and for printing a catalogue of said library; said sum to be expended under the direction of the warden.

Approved February 26, 1859.

Chap. 10.

Authorized to sell
real estate.

RESOLVE ON THE PETITION OF CHARLES SPRAGUE, JOHN B. TREMERE,
AND CHARLES AMORY, TRUSTEES.

Boundaries.

Resolved, For the reasons in said petition set forth, that Charles Sprague, John B. Tremere and Charles Amory, of Boston, trustees, be and they are hereby authorized and empowered to sell, at private sale, for cash or on credit, and to convey in fee simple, by a good and sufficient deed, discharged from all trusts and liability for the application of the purchase money, the premises described in said petition, being a certain parcel of land with the buildings thereon, situated on the southerly side of Franklin Street, lately Franklin Place, in said Boston, and bounded and described as follows, namely: beginning on the westerly line of land late of Benjamin Greene, junior, five feet and one inch from the north-westerly corner of the house recently standing thereon; thence running southwardly by the land late of said Greene, one hundred and three feet and three inches, to a passage way; thence westwardly by said passage way, twenty-nine feet and six inches, to land late of Samuel Cobb; thence northwardly by said last mentioned land, one hundred and five feet and six inches, to said Franklin Street, lately Franklin Place; and thence eastwardly by said Franklin Street, lately Franklin Place, to the point of beginning; being the same real estate which was conveyed by Ignatius Sargent and wife, to Daniel Sargent, John S. Ellery and Francis Amory, as trustees, by deed dated the fifteenth day of December, in the year one thousand eight hundred and twelve, and recorded with Suffolk Deeds, liber two hundred forty-one, folio one hundred seventy-nine, to the places and trusts of which said trustees the said petitioners have succeeded: *provided, however,* that the said Charles Sprague,

Proviso.

John B. Tremere and Charles Amory, shall invest the proceeds of said sale either in other real estate, or in good stocks or personal securities, and hold the same for the same uses, purposes and trusts for which they now hold the said real estate, and for none other.

Approved March 1, 1859.

RESOLVE CONCERNING THE BEQUEST BY ISAAC B. WOODBURY TO THE
STATE OF MASSACHUSETTS.

Chap. 11.

Resolved, That, whereas Isaac B. Woodbury, late of the town of Norwalk, in the county of Fairfield and state of Connecticut, deceased, in and by his last will and testament, duly executed, approved and allowed, did give and bequeath to the state of Massachusetts, the sum of twenty-five thousand dollars, in trust, for certain purposes and on certain conditions, in said will mentioned and set forth; and whereas, the conditions of said bequest are objectionable, and the property of said testator will not be sufficient, if the bequest aforesaid to the state is received and paid over, to leave such sum for the maintenance of his family as said testator expected and intended; therefore, while the government of this Commonwealth duly appreciate the benevolent intentions of the said Isaac B. Woodbury, the said bequest be, and the same is hereby declined and refused.

Bequest of
\$25,000 declined.

Approved March 5, 1859.

RESOLVE IN FAVOR OF WILLIAM H. OAKES AND GUSTAVUS E. HAYNES.

Chap. 12.

Resolved, That there be allowed and paid from the treasury of the Commonwealth, to William H. Oakes and Gustavus E. Haynes, respectively, the sum of seventy-five dollars and seventy-two cents, the same being due them for services performed as officers of the legislature, in the year eighteen hundred and fifty-eight.

\$151.44 for services as door-keepers.

Approved March 12, 1859.

RESOLVE PROVIDING FOR THE ENLARGEMENT OF THE INCLOSURE OF
THE STATE PRISON.

Chap. 13.

Resolved, That the sum of fifty-five hundred dollars be allowed and paid out of the treasury of the Commonwealth, for the purpose of enlarging the inclosure at the state prison, by extending the same one hundred and sixty-five feet in length, by one hundred and fifty-six feet in width: said sum to be expended in removing the wall at the end of the prison yard, removing and enlarging the workshop used for cutting stone, and erecting a suitable wall to inclose the yard extended as aforesaid, and in payment of all necessary expenses connected with the aforesaid alterations and improvements; the amount so allowed to be expended under the direction of the warden and inspectors of the prison: *provided, how-*

\$5,500, for enlargement of state prison.

Proviso.

ever, that no charge shall be made by said warden and inspectors for services therefor. *Approved March 12, 1859.*

Chap. 14. — RESOLVE IN FAVOR OF THE CITY OF CAMBRIDGE.

\$156 to city of
Cambridge.

Resolved, That the sum of one hundred and fifty-six dollars be allowed and paid out of the treasury of the Commonwealth, to the city of Cambridge, to reimburse to said city the amount paid to the state lunatic hospital, for the board of Eliza Stevens and Mary B. Varney, from May seventeenth to November seventeenth, in the year eighteen hundred and fifty-six; both of whom were subsequently ascertained to be state paupers. *Approved March 14, 1859.*

Chap. 15. RESOLVE IN FAVOR OF DAVID F. BROWN.

\$65.50 to David
F. Brown.

Resolved, That there be allowed and paid from the treasury of the Commonwealth, to David F. Brown, the sum of sixty-five dollars and fifty cents, as reimbursement for certain expenses incurred, and as compensation for time spent by him, in the discharge of his duty as an officer, charged with the service of reclaiming a fugitive from justice.

Approved March 14, 1859.

Chap. 16. RESOLVE IN FAVOR OF LEVI BAKER.

\$1,500 to Levi
Baker, to test the
constitutionality
of a law of Vir-
ginia.

Resolved, That the sum of fifteen hundred dollars be allowed and paid to Levi Baker, of Yarmouth, to enable him to test, before the supreme court of the United States, the constitutionality of an act of the legislature of the state of Virginia, passed March seventeenth, in the year eighteen hundred and fifty-six, entitled "An Act providing additional protection for the slave property of citizens;" and that said allowance be paid in such sums and at such times, as the expenses incurred by said Levi Baker, for counsel and other incidental expenses and costs, shall, in the judgment of the attorney-general, render proper and expedient. And it shall be the duty of the attorney-general to furnish, on application therefor, his certificate for such amounts to the governor.

Approved March 17, 1859.

Chap. 17. RESOLVE IN AID OF THE MASSACHUSETTS SCHOOL FOR IDIOTIC AND FEEBLE-MINDED YOUTH.

\$7,500 appropri-
ated for current
year.

Resolved, That the sum allowed to the treasurer of the Massachusetts School for Idiotic and Feeble-minded Youth, according to chapter forty-four of the resolves of the year one thousand eight hundred and fifty-one, be increased for the current year to the sum of seven thousand five hundred dollars, which shall be used and applied according to the

conditions of said forty-fourth chapter: *provided*, that the said institution shall gratuitously receive and educate fifteen idiotic persons, to be designated by the governor, in addition to the number provided for in the said forty-fourth chapter.

Proviso.

Approved March 17, 1859.

RESOLVE IN FAVOR OF SAMUEL H. REED.

Chap. 18.

Resolved, That the sum of one hundred and fifty dollars be allowed and paid from the treasury of the Commonwealth, to Samuel H. Reed, sheriff of Franklin county, to pay rewards offered by him, and claimed by sundry persons for pursuing and arresting eight prisoners who escaped from the jail in said county, on the twenty-first day of January, in the year one thousand eight hundred and fifty-eight.

\$150 to Samuel H. Reed, to pay rewards, &c.

Approved March 17, 1859.

RESOLVE CONCERNING THE PURCHASE OF BOOKS AND ENGRAVINGS FOR THE STATE LUNATIC HOSPITAL AT NORTHAMPTON.

Chap. 19.

Resolved, That the sum of two hundred dollars be, and the same is hereby allowed from the treasury of the Commonwealth, to be applied by the trustees of the state lunatic hospital at Northampton, for the purchase of engravings and books for the use of the patients therein.

\$200 for purchase of books, &c.

Approved March 21, 1859.

RESOLVE RELATING TO SCHOOL BOOKS FOR THE MARSHPEE INDIANS.

Chap. 20.

Resolved, That the sum of fifty dollars be allowed and paid, in the month of March of the current year, to the treasurer of the district of Marshpee, to be applied in aid of the purchase of school books in the public schools in said district; and that the said amount be paid out of the moiety of the income of the school fund applicable to educational purposes.

\$50 to treasurer of Marshpee for purchase of books.

Approved March 22, 1859.

RESOLVE IN FAVOR OF THE DUDLEY INDIANS.

Chap. 21.

Resolved, That there be allowed and paid from the treasury of the Commonwealth, to Asher Joslin, guardian of the Dudley Indians, the sum of two hundred and five dollars, the same being the amount of deficiency in the appropriation made for the support of said Indians, in the year eighteen hundred and fifty-eight.

\$205 to guardian of Dudley Indians.

Approved March 22, 1859.

RESOLVE CONCERNING THE ERECTION OF AN ADDITIONAL BUILDING FOR THE STATE INDUSTRIAL SCHOOL, AT LANCASTER.

Chap. 22.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, to the trustees of the state

\$9,000 to trustees of school at Lancaster, for

erection of additional building.

industrial school for girls, at Lancaster, the sum of nine thousand dollars, for the purpose of erecting and furnishing one additional brick house, similar to those already erected there, to accommodate thirty girls and their matrons: *provided, however*, that said trustees shall be allowed no pay or commissions for their services. *Approved March 22, 1859.*

Chap. 23.

RESOLVE IN RELATION TO THE SALARIES OF THE REGISTERS OF PROBATE AND THE REGISTERS OF INSOLVENCY, IN THE COUNTIES OF NANTUCKET AND FRANKLIN, FOR THE YEAR ONE THOUSAND EIGHT HUNDRED AND FIFTY-EIGHT.

Appropriations by act of 1858, paid to registers of probate and of insolvency, both offices being held by one person.

Resolved, That the sums appropriated in the one hundred and seventy-third chapter of the acts of the year one thousand eight hundred and fifty-eight, for the payment of the salaries of the registers of probate and the registers of insolvency, so far as the same may be necessary to pay said salaries as established by law for the said year, in the counties of Nantucket and Franklin, shall be paid to the said registers of probate and registers of insolvency in said counties, notwithstanding said offices in each of the counties aforesaid were held by the same person. *Approved March 22, 1859.*

Chap. 24

RESOLVES CONCERNING THE AMENDMENT TO THE CONSTITUTION.

Resolved, That the following article of amendment of the constitution, having been agreed to by the last and present general courts, and published in the manner required by the constitution, be submitted to the people for their ratification and adoption :

ARTICLE OF AMENDMENT.

Two years residence subsequent to naturalization required of persons of foreign birth, to entitle them to vote, or be eligible to office.

No person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be otherwise qualified, according to the constitution and laws of this Commonwealth: *provided*, that this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof: and *provided, further*, that it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom.

Meetings for acting on amendment.

Resolved, That the people shall be assembled for the purpose aforesaid, in their respective cities and towns, in meetings to be legally warned, and held on Monday, the ninth day of May next, at which meetings all the inhabitants qualified to vote for senators and representatives in the gen-

eral court, may give in their votes, by ballot, for or against said article of amendment; and the same officers shall preside in the said meetings as in the meetings for the choice of senators and representatives, and shall in open meeting receive, sort, count and declare the votes of the inhabitants, for and against the same; and the said votes shall be recorded by the clerks of said cities and towns, and true returns thereof shall be made out, under the hands of the mayor and aldermen of the several cities, and of the selectmen, or a major part of them, and of the clerks of the said cities and towns, respectively, and sealed up and delivered to the sheriff of the county within three days after the said meetings, to be by him transmitted to the office of the secretary of the Commonwealth within seven days after receiving the same; or the said mayors and aldermen, and selectmen, respectively, shall themselves transmit the same to the said office within ten days after the said meetings: *provided*, that in the several cities, the meetings held under this resolve shall be conducted according to the provisions of the acts establishing the same, and of the several acts in addition thereto. The said meetings shall be deemed to be legally warned or notified, if due notice thereof be given on or before the second day of May next previous thereto.

Resolved, That every person qualified to vote as aforesaid, may express his opinion on said article of amendment, without expressing in his ballot the contents of said article; but the form of said ballot shall be as follows: "Amendment to the Constitution, Yes" or "No." And if said article shall appear to be approved by a majority of the persons voting thereon, it shall be deemed and taken to be ratified and adopted by the people.

Amendment, how
to be voted on.

Resolved, That his excellency the governor and the council shall forthwith open and examine the votes returned as aforesaid; and if it shall appear that said article of amendment has been approved by a majority of the persons voting thereon, according to the votes returned and certified as aforesaid, the same shall be enrolled on parchment, and deposited in the secretary's office, as a part of the constitution of this Commonwealth, and shall be published in immediate connection therewith, numbered according to its numerical position, with the articles of amendment of the constitution heretofore adopted, in all future editions of the laws of this Commonwealth, printed by public authority.

Governor and
council to ex-
amine returns.

Resolved, That his excellency the governor be, and he hereby is, authorized and requested to issue his proclamation forthwith, after examination of the votes returned as afore-

Proclamation
upon adoption
of amendment.

said, reciting said article of amendment, and announcing that said article has been duly adopted and ratified by the people of this Commonwealth, and has become a part of the constitution thereof, and requiring all magistrates and officers, and all citizens of the said Commonwealth, to take notice thereof, and govern themselves accordingly; or that the said article of amendment has been rejected, as the case may be.

Secretary to
transmit copies
to cities and
towns.

Resolved, That a printed copy of these resolves, including the said article of amendment, and blank forms of the returns of votes on said article, shall be transmitted, as soon as may be, by the secretary of the Commonwealth, to the mayors and aldermen of the several cities, and the selectmen of the several towns, of this Commonwealth.

Approved March 25, 1859.

Chap. 25. RESOLVE PROVIDING FOR THE PAYMENT OF THE AGENT TO PROSECUTE THE CLAIM OF MASSACHUSETTS UPON THE FEDERAL GOVERNMENT.

Agent to be paid
from moneys re-
ceived from the
Massachusetts
claim.

Resolved, That whereas, the "Resolve in relation to the Massachusetts Claim upon the Federal Government," approved February eleventh, eighteen hundred and fifty-nine, provides for the appointment of an agent to prosecute said claim before congress, and "that the compensation of such agent be fixed by the governor and council;" therefore, be it further *provided*, that the sum so fixed shall be paid out of the moneys to be received by Massachusetts from the federal government under the aforesaid claim, which was authorized to be paid by an act of the thirty-fifth congress, approved March third, eighteen hundred and fifty-nine; and that such part of the moneys so received, as shall be authorized by the governor and council, be, and the same is hereby appropriated, and that the same shall be paid by the treasurer out of such moneys, upon the warrant of the governor.

Approved March 26, 1859.

Chap. 26 RESOLVE IN FAVOR OF THE TOWN OF WEST SPRINGFIELD.

\$229.20 to the
towns of West
Springfield

Resolved, That there be allowed and paid to the town of West Springfield, from the treasury of the Commonwealth, the sum of two hundred twenty-nine dollars and twenty cents, to reimburse the expenses incurred by the said town in the support of Joseph Paron and family.

Approved March 26, 1859.

Chap. 27. RESOLVE IN FAVOR OF SAMUEL L. HARRIS.

\$1,262.85 to Sam-
uel L. Harris, for
services, & c., as

Resolved, That there be allowed and paid from the treasury of the Commonwealth, to Samuel L. Harris, the sum

of three hundred and forty-one dollars and thirty-four cents, to reimburse him for moneys expended by him, and interest thereon, in procuring and transmitting documents in relation to the claim of the Commonwealth on the general government, under the treaty of Washington: and that there be allowed and paid to said Samuel L. Harris, the further sum of nine hundred and twenty-one dollars and fifty-one cents, as compensation for his personal services in prosecuting said claim.

Approved March 26, 1859.

RESOLVE ON THE PETITION OF EDWARD H. ELDRIDGE, GUARDIAN. *Chap. 28.*

Resolved, For reasons set forth in said petition, that Edward H. Eldredge, of Boston, in the county of Suffolk, (formerly of Dorchester in the county of Norfolk) guardian of his minor child, Rolfe Eldredge, is hereby authorized to sell at public auction or private sale, on such terms as he shall think most advantageous, and at any time during the minority of said child, and convey to the purchasers thereof in fee simple, by good and sufficient deeds, all the estate, right, title and interest of said minor child in and to any land or parcel or parcels of land, situate in the town of Newton, in the county of Middlesex, such sale to be made in such parcel or parcels as said guardian shall see fit: *provided, however*, that the said guardian shall first give bond, with good and sufficient sureties, to the judge of probate and insolvency for the county of Norfolk, to be approved by said judge, with condition, that the said guardian shall faithfully execute the powers herein granted, and shall render to said judge, or his successors in said office, a true account, under his oath, of the proceeds of all sales made under this resolve, within one year from the time of such sales respectively, and at such other times as said judge may direct; and shall apply and invest such proceeds, and account for and pay over the same, when required, according to law, and shall discharge his trust in relation to the premises faithfully for the best interests of his said ward.

Approved March 26, 1859.

RESOLVE TO AMEND A "RESOLVE ON THE PETITION OF WILLIAM ROBINSON, GUARDIAN TO THE DUDLEY INDIANS." *Chap. 29.*

Resolved, That the resolve passed the twenty-fourth day of February, in the year eighteen hundred and twenty-nine, entitled a "Resolve on the Petition of William Robinson, Guardian to the Dudley Indians," be, and it is hereby amended, by striking out the words "the selectmen of the

town of Dudley," and substituting therefor the words "the selectmen of the town of Webster."

Approved March 26, 1859.

Chap. 30.

RESOLVE IN FAVOR OF W. H. LUCE.

\$215.50 to W. H. Luce.

Resolved, That there be allowed and paid from the treasury of the Commonwealth, the sum of two hundred and fifteen dollars and fifty cents, to W. H. Luce, of Tisbury, as full compensation for his services as physician to the Gay Head and Christiantown Indians.

Approved March 28, 1859.

Chap. 31.

RESOLVE IN FAVOR OF ISSACHAR J. ELLIOTT.

\$120.14 to Issachar J. Elliott.

Resolved, That there be allowed and paid from the treasury of the Commonwealth, to Issachar J. Elliott, the sum of one hundred and twenty dollars and fourteen cents, for money expended by him for the support of the Dudley Indians, and for his salary as guardian of the same, as set forth in his petition.

Approved March 28, 1859.

Chap. 32.

RESOLVE TO PROVIDE FOR GRANTING AID FOR THE SUPPRESSION OF COUNTERFEITING BANK BILLS AND COIN.

\$1,500 for suppression of counterfeiting.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, to the association of banks for the suppression of counterfeiting in this Commonwealth, a sum not exceeding one thousand five hundred dollars, for the purpose of the prevention and detection of the crime of making, or tendering in payment as true, counterfeit bank bills, or counterfeit gold and silver coin: *provided*, that no sums be paid under or by authority of this resolve, which shall exceed one-third of the amount which said association shall certify and prove to the governor, shall have been raised and judiciously expended, by said association, for the purposes aforesaid.

Approved March 28, 1859.

Chap. 33.

RESOLVE IN FAVOR OF DANIEL B. HINCKLEY.

\$2,009 to Daniel B. Hinckley.

Resolved, That there be and hereby is appropriated, and the same shall be paid to Daniel B. Hinckley, the sum of two thousand and nine dollars,—one moiety thereof out of the school fund, and the other moiety thereof out of the Western Railroad stock sinking fund,—in satisfaction of the award of the commissioners of public lands, made in his favor on the sixteenth day of February, in the present year, for damages sustained by him, by the conveyance by the Commonwealth of land in township number five, range eleven, in the state of Maine.

Approved March 28, 1859.

RESOLVE MAKING AN APPROPRIATION FOR COMPLETING A BUILDING FOR THE MASSACHUSETTS SCHOOL FOR IDIOTIC AND FEEBLE-MINDED YOUTH.

Chap. 34.

Resolved, That the sum of four thousand dollars be, and the same is hereby allowed out of the treasury of the Commonwealth, to be applied by the trustees of the Massachusetts School for Idiotic and Feeble-minded Youth, for the purpose of completing the south building at said school.

\$4,000 for completing building.

Approved March 28, 1859.

RESOLVE IN FAVOR OF JOHN MCGRATH.

Chap. 35.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, in aid of John McGrath, of Framingham, the sum of two hundred dollars, to be placed in the hands of the overseers of the poor of Framingham, to be expended at their discretion, for the support of said McGrath and his family; and that said sum of two hundred dollars shall be in full for all claims of said McGrath upon the Commonwealth.

\$200 in aid of John McGrath, to be expended by overseers of poor.

Approved March 29, 1859.

RESOLVE IN RELATION TO CERTAIN PROPERTY HELD BY THE COMMONWEALTH UNDER A MORTGAGE FROM NORMAND STILES AND PHEBE B. STILES.

Chap. 36.

Resolved, For the reasons set forth in the communication of his excellency the governor, that the treasurer and receiver-general be, and he is hereby authorized to dispose of and sell the whole interest of the Commonwealth in and to the estate conveyed in mortgage to John Mills, as treasurer of the Commonwealth, by Normand Stiles, and Phebe B. Stiles, wife of said Normand, as appears by their deed bearing date of the thirteenth day of December, in the year one thousand eight hundred and fifty-three, and recorded with Hampden Deeds, book one hundred twenty-two, folium three hundred and seventeen, and to execute and deliver deeds of the same under the seal of the Commonwealth: *provided*, that the terms and conditions of such sale shall be approved by the governor.

Treasurer authorized to sell estate of Normand Stiles.

Proviso.

Approved March 29, 1859.

RESOLVE IN RELATION TO CERTAIN REPAIRS ON THE STATE HOUSE.

Chap. 37.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, for repairs on the cupola and dome of the state house, and for improving the means of ventilation in the hall of the house of representatives, the sum of thirty-three hundred dollars; the same to be expended under the direction of the commissioners on the state house.

\$3,300 for repairs on cupola, &c.

Approved March 29, 1859.

Chap. 38.

RESOLVE CONCERNING THE MIDDLESEX CANAL.

Attorney-general
to institute *quo*
warranto process,
&c.

Resolved, That the attorney-general be, and hereby is, directed and empowered to institute and prosecute an information in the nature of a *quo warranto*, or other suitable process, against the proprietors of the Middlesex Canal, requiring said corporation to appear before the justices of the supreme judicial court, at a proper term thereof, to show cause, if any said corporation have, why the charter of said corporation should not be adjudged to be forfeit, and that all due proceedings and decrees in the premises before our said court be had.

Approved March 29, 1859.

Chap. 39.

RESOLVE ON THE PETITION OF BENJAMIN SMITH, A SOLDIER OF THE REVOLUTION.

\$100 to Benjamin
Smith, payable
semi-annually,
provided, &c.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, to Benjamin Smith, of Grafton, a soldier of the Revolution, two semi-annual payments, of fifty dollars each; the first payment shall be due and payable the first day of May, one thousand eight hundred and fifty-nine. Should the said Smith decease previous to the said first day of May, or thereafter during the interval of payments named above, then this resolve shall have no further effect, and no further payments shall be made thereunder. The governor is authorized to draw his warrant accordingly.

Approved March 29, 1859.

Chap. 40.

RESOLVE IN FAVOR OF T. F. ROLLINS.

\$267.59 to T. F.
Rollins.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, to T. F. Rollins, three hundred and sixty-seven dollars and fifty-nine cents, for repairs of wharf at Rainsford Island.

Approved March 31, 1859.

Chap. 41.

RESOLVE ON THE PETITION OF MARTIN WHEELOCK.

\$50 to Martin
Wheelock.

Resolved, For reasons set forth in said petition, that there be allowed and paid out of the treasury of the Commonwealth, to Martin Wheelock, of Gardner, in the county of Worcester, the sum of fifty dollars; and that the governor be authorized to draw his warrant accordingly.

Approved March 31, 1859.

Chap. 42.

RESOLVE ON THE PETITION OF CHARLES MATTOON.

\$135 to Charles
Mattoon, judge
of probate, &c.

Resolved, For reasons set forth in said petition, that there be allowed and paid out of the treasury of the Commonwealth, to Charles Mattoon, of Greenfield, judge of probate and insolvency for the county of Franklin, the sum of one hundred and thirty-five dollars, for services and travelling

expenses in attending courts of insolvency for the county of Worcester.

Approved March 31, 1859.

RESOLVE IN FAVOR OF THE TOWN OF DUDLEY.

Chap. 43.

Resolved, That there be allowed and paid from the treasury of the Commonwealth, to the overseers of the poor of the town of Dudley, the sum of one hundred and twenty-six dollars and twelve cents, to defray expenses incurred in providing medical attendance and other necessities to Andrew Loftice, a state pauper, while suffering from injuries received from a fall, and being unable to be removed; and that a warrant be drawn accordingly.

Approved April 1, 1859.

\$126.12 to overseers of poor of Dudley.

RESOLVE IN FAVOR OF HENRY B. FERNALD.

Chap. 44.

Resolved, That there be allowed and paid from the treasury of the Commonwealth, the sum of one hundred and fifty dollars to Henry B. Fernald, for the payment of expenses incurred in the defence of a suit against himself, in consequence of his refusal to act as judge of insolvency in violation of the law of the year one thousand eight hundred and fifty-eight, entitled "An Act to change the Jurisdiction in matters of Probate and Insolvency."

Approved April 1, 1859.

\$150 to Henry B. Fernald.

RESOLVE TO SECURE THE BETTER VENTILATION OF THE REPRESENTATIVES' HALL.

Chap. 45.

Resolved, That a sum not exceeding one thousand dollars be allowed and paid, to defray the expense of securing the better ventilation of the representatives' hall; the same to be disbursed under the direction of the commissioners on the state house, and the chairman of the committee on the state house on the part of the house of representatives.

Approved April 1, 1859.

\$1,000 for the ventilation of representatives' hall.

RESOLVE ESTABLISHING THE SALARY OF THE SECRETARY OF THE BOARD OF AGRICULTURE.

Chap. 46.

Resolved, That the salary of the secretary of the board of agriculture be, and the same is hereby fixed at the sum of two thousand dollars annually.

Approved April 1, 1859.

\$2,000 salary of the secretary.

RESOLVES CONCERNING THE FLOWAGE OF LANDS, IN THE TOWNS OF CONCORD, SUDBURY, WAYLAND, BEDFORD AND CARLISLE.

Chap. 47.

Resolved, That a joint committee, consisting of two members on the part of the senate and three members of the house of representatives, be appointed to investigate the

Committee of legislature to investigate, &c.

flowage of lands, lying in the towns of Concord, Wayland, Sudbury, Bedford and Carlisle, and to recommend such changes and improvements in said flowage as they may deem requisite for the public good and the owners of said lands.

To sit in recess
and report to
next legislature.

Resolved, That for the purposes above named, the committee shall be authorized to sit in the recess, with full powers to examine said lands, and send for persons and papers, if it shall be found necessary so to do: and the said committee shall make a full report thereon to the next legislature.

Approved April 1, 1859.

Chap. 48.

RESOLVE ON THE PETITION OF JOSIAH RUTTER, TRUSTEE.

Authorized to
sell real estate.

Location.

Proviso.

Resolved, For reasons set forth in said petition, that Josiah Rutter, of Waltham, in the county of Middlesex, trustee under and by virtue of the provisions of a certain deed of real estate, situate in Weston, in said county, made by one Samuel Lovewell, dated March thirtieth, in the year one thousand eight hundred and thirty-nine, and recorded in the registry of deeds for the county of Middlesex, book three hundred and eighty-four, page four hundred and sixty-four, is hereby authorized and empowered to sell at public auction or private sale, on such terms as he may think most advantageous, and convey to the purchaser or purchasers thereof, by good and sufficient deed or deeds, all the estate, right, title and interest in and to the real estate in said deed described, vested in him by virtue of his appointment as trustee as aforesaid: *provided, however*, that the said trustee shall, previous to said conveyance, give bond with good and sufficient sureties, to the judge of probate and insolvency for the county of Middlesex, to be approved by said judge, with condition that the said trustee shall faithfully execute the powers herein granted, and shall render to said judge, or to his successors, a true account, under oath, of the proceeds of said sale or sales, within one year from the date thereof, and at such other times as the said judge may direct; and shall apply and invest such proceeds, and account for and pay over the same when required, according to law, and shall discharge his trust in relation to the premises, faithfully and for the best interests of the *cestui qui trust* named in said deed.

Approved April 1, 1859.

Chap. 49.

RESOLVE IN AID OF THE HOSPITAL AT NORTHAMPTON.

\$6,000 to the
trustees.

Resolved, That the sum of six thousand dollars be allowed and paid to the trustees of the hospital for the insane at Northampton, being the amount drawn after their annual report to the legislature, on the thirtieth of September,

eighteen hundred and fifty-seven, from former appropriations, and before the passage of the act, chapter one hundred and forty of the acts of the year eighteen hundred and fifty-eight, and not included in the sum of fourteen thousand two hundred and twenty-two dollars and ten cents, mentioned in said act as having been expended for furnishing and providing said hospital for occupancy, as mentioned therein.

Approved April 1, 1859.

RESOLVE CONCERNING THE STATE MAP.

Chap. 50.

Resolved, That the secretary of the Commonwealth be, and hereby is, authorized to contract with Henry F. Walling, for the publication of the state map during the remaining term of the copyright thereof, upon the following conditions:—Said Walling shall, at his own expense, cause all necessary corrections to be from time to time engraved upon the original plates, and at the expiration of the copyright he shall return the plates to the secretary of the Commonwealth, waiving any exclusive right on his part to any additions or corrections that he shall have caused to be put upon them.

Secretary to contract with Henry F. Walling.

Conditions.

Said Walling shall not remove the plates above mentioned, from the Commonwealth; nor shall he print from them or allow others to do so, or subject them to any wear or use, except such as may be necessary in making electrotpe duplicates.

Said Walling shall furnish the secretary of the Commonwealth with as many copies of the then latest edition of the map as may be required for the use of the Commonwealth, at a price not exceeding five dollars, and shall keep a supply thereof constantly on public sale in Boston, at a price not exceeding six dollars.

Said Walling shall waive all claim upon the Commonwealth for past services as superintendent of the state map, whether on the ground of broken contract or otherwise.

Said Walling shall keep the plates above mentioned insured; in behalf of the Commonwealth, for at least three thousand dollars, and shall deposit the policy with the secretary of the Commonwealth, who shall also exact of him a satisfactory bond, in at least four thousand dollars for the safe keeping and return of the plates, and for the due performance of all parts of the contract.

Approved April 1, 1859.

RESOLVE IN FAVOR OF THE WASHINGTONIAN HOME.

Chap. 51.

Resolved, That the sum of one thousand dollars be allowed from the treasury of the Commonwealth, to the

\$1,000 to be expended by directors.

Washingtonian Home, to be expended by the directors for the charitable purposes of the institution, in providing a refuge for inebriates and means for reforming them.

Approved April 1, 1859.

Chap. 52. RESOLVES TO ENFORCE PAYMENT OF DEBTS DUE TO THE COMMONWEALTH, ON ACCOUNT OF SALES OF THE PUBLIC LANDS IN MAINE.

Land agent to advertise list of tracts of land on which payments are due.

Resolved, That the land agent be, and hereby is directed, as soon as may be after the first day of May next, to advertise in the Bangor Jeffersonian and Portland Advertiser, newspapers printed in Maine, and in the Boston Daily Advertiser, the Boston Atlas and Daily Bee and the Boston Evening Traveller, a list of all tracts of land and timber on which there now are, or on or before the third day of September next, will be due, to the Commonwealth of Massachusetts, any promissory notes given for the purchase thereof, specifying in such list the notes due on the several tracts, the names of the promissors, and the amount of principal and interest which will then be due, and giving notice in such advertisements, to all parties interested in said tracts, that if said notes shall not be paid on or before the third day of September next, the said tracts will be declared forfeited to the Commonwealth, for breach of the condition of the deeds and contracts conveying the same.

Lands forfeited if notes are unpaid September thrid.

Lands on which payments are not made in one year from September, to be forfeited, except, &c.

Resolved, That in case said notes shall not be paid within one year after the third day of September next, then all said tracts of land and timber, on which payment shall not have been made, shall become, and are hereby declared to be, forfeited to the Commonwealth of Massachusetts, without further time for redemption, except as hereinafter provided, to wit: on payment of one-third part of the principal and interest due on the notes given for any tract or tracts of land or timber, advertised as aforesaid, to be made on or before the third day of September, in the year eighteen hundred and sixty, the forfeiture of such tract or tracts shall be postponed for one year; and on payment of one-half of the principal and interest remaining due, to be made on or before the third day of September, in the year eighteen hundred and sixty-one, the forfeiture of such tract or tracts shall be further postponed for another year; and on payment of the balance of the principal and interest remaining due, on said notes, to be made on or before the third day of September, in the year eighteen hundred and sixty-two, the other conditions of the deed or contract having been performed, the forfeiture shall be wholly relieved, and the title of the purchaser under the deed or contract shall become

absolute: *provided, however*, that no timber or logs shall be cut or removed from any of said tracts, without security being first given, satisfactory to the treasurer and land agent, for payment of stumpage thereon, at the rate of two and a half dollars per ton for timber, and four dollars per thousand feet, board measure, for logs, at the woods' scale, to be made on the third day of September next after the cutting thereof, and indorsed on the notes given for the tract or tracts, on which the same shall have been cut, and to be accounted as payment, in whole or in part, of the several instalments above specified, in order of time as they mature; and in case timber or logs are so cut or removed, without security given as aforesaid, or such stumpage is not paid as aforesaid, then the tract or tracts, from which the same are cut or removed, shall not be saved from forfeiture, but shall be forfeited without further time for redemption.

Resolved, That if any part owner of any of said tract or tracts of land or timber, or any mortgagee thereof, fails to pay his proportion of the principal and interest to be paid as aforesaid, on the third day of September, in the year eighteen hundred and sixty, any other part owner or mortgagee, who on that day pays his part of said principal and interest, may, on the fourth day of said September, pay to the land agent the sum which is required to be paid on the previous day by such delinquent part owner, and shall have the right to complete the payments for the whole, in manner before provided, and having so done, shall be entitled to a deed of the interest in the tract or tracts forfeited by such delinquent part owner. No payment made by any part owner, shall save from forfeiture any part of any tract or tracts, unless the share of each delinquent part owner be paid and the land purchased in the manner before provided. If there be two or more part owners, who desire to pay their own shares of such sums, and to unite in paying the share of such delinquent part owner, they may do so, and be entitled to the forfeited interest of such delinquent part owner, in proportion to their own respective interests.

Resolved, That there be appointed a committee of the legislature, consisting of one on the part of the senate and two on the part of the house, whose duty it shall be, as soon as practicable after the adjournment of the present session, to examine into the value of all tracts of land and timber in Maine, held to the Commonwealth of Massachusetts for payment of any notes whatsoever, and into the personal responsibility of the promissors on said notes, and to ascertain the probability of payment being made by them, or

Proviso.

Owners of lands failing to pay, &c., other owners may pay sums required, and receive a deed of the lands.

Committee to examine into value of lands held for non-payment, and settle claims of Commonwealth, &c.

realized from said lands and timber; also, to inquire into and consider the grounds of abatement prayed for by the petition of Cyrus S. Clark and William H. McCrillis; also, to confer with all parties interested in said tracts, for the purpose of obtaining, if practicable, an early settlement of said notes, in whole or in part, either by present payment, or by new and reliable securities; and to make report thereof to the governor and council: and said committee shall have power and authority, with the approval of the governor and council, to adjust, compromise and finally settle said notes, and the claims of the Commonwealth under said conditional deeds and contracts, on such terms as the interests of the Commonwealth may require, and as shall be just and equitable to the parties interested in said lands; and the land agent is hereby authorized, under the direction of the governor and council, to execute and deliver such deeds and instruments as may be required, on behalf of the Commonwealth, to carry such settlement into effect; and these resolves shall not be construed to invalidate any security, whether by contract or otherwise, now held by the Commonwealth.

Approved April 1, 1859.

Land agent to
execute deeds,
&c.

Chap. 53. RESOLVE IN FAVOR OF THE GUARDIAN OF THE TRIBE OF PUNKAPOG INDIANS.

§104 to the guar-
dian.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, to the guardian of the tribe of Punkapog Indians, the sum of fifty-two dollars, for the benefit and sole use of Isaac Williams; also, the sum of fifty-two dollars, for the benefit and sole use of Elizabeth Bancroft, both members of said tribe, being in feeble health; the same being in addition to the sums allowed and paid to said guardian, by resolve of the year eighteen hundred and forty-five, chapter six, and of resolve of the year eighteen hundred and fifty-five, chapter twenty.

Approved April 2, 1859.

Chap. 54. RESOLVE CONFIRMING THE RECORDS AND DOINGS OF THE CONGREGATIONAL LIBRARY ASSOCIATION.

Records made
valid, &c.

Resolved, That all the acts and proceedings of the Congregational Library Association, as the same now constitute the records of said association in possession of its recording secretary, be, and the same are hereby fully ratified, established and confirmed, and the said records be held valid and complete to all intents and purposes, as the acts, proceedings and records of a corporation duly organized and constituted, agreeably to the laws of the Commonwealth of Massachu-

setts, notwithstanding any defects, informalities or omissions whatsoever, in any of said acts, proceedings or records; and furthermore that the persons now acting as the officers of said association, according to said records, be hereby fully established in their respective offices as the legally constituted officers of such corporation, and fully authorized to perform all their respective duties, until their successors be chosen in conformity with the constitution and by-laws of said association, as the same have, from time to time, been altered or amended.

Approved April 2, 1859.

Officers established, &c.

RESOLVE CONCERNING THE PRESERVATION OF CERTAIN PAPERS.

Chap. 55.

Resolved, That the secretary of the Commonwealth be, and he is hereby authorized to cause to be preserved in bound volumes, the original "Plats and Land Grants," now on file in his office; and a sum not exceeding one hundred and fifty dollars is hereby appropriated for the expense of the same.

Approved April 2, 1859.

\$150 appropriated.

RESOLVE ON THE PETITION OF NATHANIEL SILSBEE, TRUSTEE, AND MARY ANN C. D. SILSBEE.

Chap. 56.

Resolved, For the reasons set forth in said petition, that Nathaniel Silsbee, of Salem, in the county of Essex, be, and hereby is, authorized and empowered to sell and convey, at public or private sale, and on such terms as he shall think expedient, a certain lot of land situate in Salem, aforesaid, and bounded as follows: Beginning at the corner of Pleasant and Andrew Streets, thence easterly by said Andrew Street, one hundred and twenty feet, to land of Ropes; thence southerly by land of Ropes ninety-five feet, to land of Silsbee; thence westerly by land of Silsbee one hundred and fifty-two feet, to the northerly side of an iron post in Pleasant Street; thence northerly by Pleasant Street, seventy-seven feet, to point begun at; being the same estate conveyed to said Nathaniel, as trustee, by deed of Nathaniel Silsbee, senior, recorded in Essex registry of deeds, book two hundred and sixty-eight, leaf forty-three; and to execute good and sufficient deeds thereof, free and discharged from all trusts, and to hold the net proceeds of the sale of said estate, upon the trusts referred to in said petition.

Approved April 4, 1859.

Authorized to sell real estate.

Location.

Boundaries.

RESOLVE IN FAVOR OF THE TOWN OF NORTH BROOKFIELD.

Chap. 57.

Resolved, That there be allowed and paid from the treasury of the Commonwealth, to the town of North Brookfield, the sum of one hundred and forty-four dollars, to reimburse said town for the expenses incurred in the support of Frederick M. Scott, a state pauper.

Approved April 4, 1859.

\$144 to the town of North Brookfield.

Chap. 58. RESOLVE IN FAVOR OF DESERVING PUPILS OF THE STATE REFORM SCHOOL AND STATE INDUSTRIAL SCHOOL.

Allowance of \$1,000 for the assistance and education of deserving pupils.

Resolved, That a sum not exceeding one thousand dollars, be allowed from the treasury of the Commonwealth, for the assistance and education of such pupils of the state reform school for boys, and the state industrial school for girls, as may be designated by the governor, upon the certificate of the trustees of either of the said schools that said pupils are worthy of special encouragement for good conduct, in order that those pupils may be made competent to engage in some useful vocation or trade ; and that the governor be authorized to draw his warrant accordingly : *provided*, that not more than one hundred dollars be applied for the benefit of any one pupil, and that the amount applied for the benefit of any pupil be expended under the direction of the trustees of the school to which such pupil shall have been committed.

Proviso.

Approved April 4, 1859.

Chap. 59. RESOLVE IN ADDITION TO A RESOLVE PASSED FEBRUARY 10, 1816.

Compensation of preacher of election sermon.

Resolved, That the resolve passed on the tenth day of February, in the year one thousand eight hundred and sixteen, be so far amended as to make the compensation of the preacher of the election sermon, annually, one hundred dollars, beginning with the present year.

Approved April 4, 1859.

Chap. 60. RESOLVE IN FAVOR OF THE GUARDIAN OF THE PUNKAPOG TRIBE OF INDIANS, FOR THE BENEFIT OF SALLY BURR.

\$52 appropriated.

Resolved, For the reasons set forth in the petition of Sally Burr, a member of the Punkapog tribe of Indians, that there be allowed and paid out of the treasury of the Commonwealth, to the guardian of said tribe, the sum of fifty-two dollars, for the benefit of said petitioner.

Approved April 5, 1859.

Chap. 61. RESOLVE IN RELATION TO THE STATE PRISON.

\$300 for building a fence.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, the sum of three hundred dollars for the purpose of building a wooden fence on the north and west sides of the grounds of the state prison ; said fence to be of the same height as the one which formerly stood on said premises.

Approved April 5, 1859.

Chap. 62. RESOLVE FOR THE PAYMENT OF MILITARY BOUNTY TO COMPANY D, SIXTH REGIMENT, THIRD BRIGADE, SECOND DIVISION OF MASSACHUSETTS VOLUNTEER MILITIA.

Allowance for services in 1857.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, to John Abare and fifty-four

others, late members of company D, sixth regiment, third brigade, second division of the Massachusetts volunteer militia, the sums set against their respective names, in the accompanying pay-roll, for services performed as officers, non-commissioned officers, privates and musicians in said company, in the year eighteen hundred and fifty-seven, and not yet allowed them because of informality and incorrectness in the returns of said company to the adjutant-general.

PAY-ROLL.

John Abare, one dollar and fifty-cents ; Julius Abare, one dollar and fifty cents ; Richard Ames, five dollars ; Charles Allen, one dollar and fifty cents ; A. J. Babcock, one dollar and fifty cents ; James W. Boynton, seven dollars and fifty cents ; Samuel Bickford, one dollar and fifty cents ; Bradbury Brown, seven dollars and fifty cents ; R. B. Caverly, one dollar and fifty cents ; John W. Clement, one dollar and fifty cents ; C. G. Clement, one dollar and fifty cents ; George H. Davis, nine dollars ; William Dowser, seven dollars and fifty cents ; Edmund Eastman, one dollar and fifty cents ; M. H. Fletcher, one dollar and fifty cents ; F. L. Fletcher, nine dollars ; E. St. Francis, one dollar and fifty cents ; Melvin Freeman, one dollar and fifty cents ; John F. George, one dollar and fifty cents ; Edwin Golden, seven dollars and fifty cents ; A. S. George, one dollar and fifty cents ; Daniel H. Gordon, one dollar and fifty cents ; John S. Holmes, seven dollars and fifty cents ; J. N. Hutchins, one dollar and fifty cents ; B. F. Jackson, six dollars and fifty cents ; H. T. Jenkins, one dollar and fifty cents ; C. P. Johnson, one dollar and fifty cents ; S. H. Lane, one dollar and fifty cents ; William P. Lynch, one dollar and fifty cents ; F. W. Lougee, one dollar and fifty cents ; George Leighton, one dollar and fifty cents ; Bryant Moore, seven dollars and fifty cents ; Ira Moore, seven dollars and fifty cents ; James Murphy, seven dollars and fifty cents ; Charles Merrill, one dollar and fifty cents ; A. G. Norcross, seven dollars and fifty cents ; Ora Oakman, seven dollars and fifty cents ; H. Patterson, one dollar and fifty cents ; John Palmer, one dollar and fifty cents ; T. Pearson, one dollar and fifty cents ; C. B. Reed, one dollar and fifty cents ; John Roberts, one dollar and fifty cents ; C. H. Rundlet, one dollar and fifty cents ; C. J. Shackford, one dollar and fifty cents ; George Stevens, one dollar and fifty cents ; Edwin Simonds, one dollar and fifty cents ; Alfred Shattuck, one dollar and fifty cents ; M. P. Smith, one dollar and fifty cents ; William

H. Smith, one dollar and fifty cents; Jesse G. Stover, nine dollars; James A. Storer, seven dollars and fifty cents; J. A. Tinker, one dollar and fifty cents; Temple Tebbetts, two dollars and fifty cents; J. Vandeford, one dollar and fifty cents; Archelus Welch, one dollar and fifty cents.

Approved April 5, 1859.

Chap. 63.

Additional allowance for support of certain paupers.

RESOLVE IN FAVOR OF THE MARSHPEE INDIANS.

Resolved, That in addition to the sum of one hundred dollars, allowed to the treasurer of the Marshpee Indians, by resolve, chapter twenty-seven, of the year one thousand eight hundred and fifty-eight, there be allowed and paid from the appropriation for Indians, the sum of forty-seven dollars and eighteen cents, to the said treasurer, for the support of certain paupers of that tribe.

Approved April 5, 1859.

Chap. 64.

\$3,000 allowed to provide additional securities.

RESOLVE RELATING TO THE BETTER PROTECTION OF THE STATE ALMSHOUSES FROM FIRE.

Resolved, That the sum of one thousand dollars be allowed and paid to the inspectors of each of the three state almshouses, for the purpose of providing additional securities against fire, within the present year: *provided*, that at Tewksbury an amount equal to what has already been expended for hose, may be expended for gutters and conductors and for painting.

Approved April 5, 1859.

Chap. 65.

\$667.50 for corrections of plates of the state map.

RESOLVE IN FAVOR OF SMITH, KNIGHT AND TAPPAN.

Resolved, That there be allowed and paid from the treasury of the Commonwealth, to Smith, Knight and Tappan, the sum of six hundred and sixty-seven dollars and fifty cents, in full payment for the corrections of the plates of the state map.

Approved April 5, 1859.

Chap. 66.

\$60 to Artimun Staples.

RESOLVE IN FAVOR OF ARTIMUN STAPLES.

Resolved, That there be allowed and paid from the treasury of the Commonwealth, the sum of sixty dollars, to Artimun Staples, to defray the expenses incurred in the defence of a suit against himself, as an officer, in the execution of the laws of the Commonwealth.

Approved April 5, 1859.

Chap. 67.

\$300 for new inclosures and desks.

RESOLVE RELATING TO REPORTERS' SEATS IN THE HOUSE OF REPRESENTATIVES.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, the sum of three hundred dollars, for removing the present seats of reporters in the

house of representatives, and replacing the same by new and more convenient inclosures and desks; the same to be expended by the sergeant-at-arms, under the direction of the commissioners on the state house.

Approved April 5, 1859.

RESOLVE IN FAVOR OF L. P. ROWLAND.

Chap. 68.

Resolved, That there be allowed and paid from the treasury of the Commonwealth, the sum of three hundred and ninety-nine dollars and forty-four cents, to L. P. Rowland, to reimburse the expenses incurred in the defence of suits against himself, as an officer, executing the laws of the Commonwealth.

Approved April 5, 1859.

\$399.44 to L. P. Rowland.

RESOLVE CONCERNING THE PROCEEDINGS IN EQUITY BETWEEN THE COMMONWEALTH AND THE STATE OF RHODE ISLAND.

Chap. 69.

Resolved, That the attorney-general and the counsel on behalf of the Commonwealth, subject to the direction and approval of the governor and council, be and they are hereby authorized to negotiate for the adjustment of the proceeding in equity now pending in the supreme court of the United States between this Commonwealth and the state of Rhode Island and Providence Plantations, by the adoption of a conventional line, to be confirmed by a decree of said court, and that for the purposes aforesaid, and the general expenses of conducting said suit, the governor be authorized to draw his warrant for a sum not exceeding five thousand dollars.

Approved April 5, 1859.

Attorney-general and counsel to negotiate for the adoption of a conventional line.

\$5,000 appropriated.

RESOLVE IN RELATION TO THE SURRENDER OF CERTAIN MILITARY STORES TO THE UNITED STATES.

Chap. 70.

Resolved, That the adjutant-general, under the direction of the governor, be and he hereby is authorized, empowered and directed, to surrender to the United States such arms, equipments and munitions of war, if any, as the United States may be entitled to receive, in consequence of the payment of the claim of the Commonwealth for disbursements, services and so forth, during the late war with Great Britain.

Approved April 5, 1859.

Surrender authorized in consequence of the payment of Massachusetts claim.

RESOLVE AUTHORIZING THE REMOVAL OF CERTAIN GUNS FROM THE STATE ARSENAL.

Chap. 71.

Resolved, That the adjutant-general be authorized and instructed to remove, forthwith, from the state arsenal, at Cambridge, to the doric hall of the state house, the two pieces of ordnance, formerly in possession of the Concord Artillery, and inscribed by the state, with the names of those

Removal to state house authorized.

patriots who fell at the battle of Concord; and also two other brass guns, formerly used in the city of Lowell, which were captured at the battle of Bennington; said guns to be properly mounted and located in some appropriate space, under the direction of the commissioners on the state house, and kept where they may at all times be convenient to public inspection.

Approved April 5, 1859.

Chap. 72.

RESOLVE IN FAVOR OF ROBERT B. CAVERLY.

\$498.26 for expenses of court-martial.

Resolved, That by reason of the extraordinary cost incurred by Robert B. Caverly, of the city of Lowell, in being drawn without the limits of his brigade, for his trial by court-martial, there be allowed and paid out of the treasury of the Commonwealth, to him, the sum of four hundred ninety-eight dollars twenty-six cents, to indemnify him for expenses incurred in defending charges against him at a court-martial, as stated in his petition.

Approved April 5, 1859.

Chap. 73.

RESOLVE IN ADDITION TO A RESOLVE IN RELATION TO THE SALARIES OF THE REGISTERS OF PROBATE AND THE REGISTERS OF INSOLVENCY IN THE COUNTIES OF NANTUCKET AND FRANKLIN, FOR THE YEAR EIGHTEEN HUNDRED AND FIFTY-EIGHT.

Resolve of 1859 to apply to salaries, &c., after December, 1858.

Resolved, That the provisions of the resolve, chapter twenty-three, of the present year, be extended, so as to apply to the salaries of the officers therein mentioned, during the time they may have held the offices mentioned in said resolve, after the thirty-first day of December, in the year one thousand eight hundred and fifty-eight.

Approved April 5, 1859.

Chap. 74.

RESOLVE IN FAVOR OF JOHN C. WILLEY.

\$832 11 to John C. Willey.

Resolved, That there be allowed and paid from the treasury of the Commonwealth, the sum of three hundred and thirty-two dollars and eleven cents, to John C. Willey, for indemnification for costs and expenses, incurred in the defence of a suit against him, as an officer executing the liquor law of the year eighteen hundred and fifty-five.

Approved April 5, 1859.

Chap. 75.

RESOLVE IN FAVOR OF BENJAMIN WALKER.

\$75 to Benjamin Walker.

Resolved, That there be allowed and paid from the treasury of the Commonwealth, the sum of seventy-five dollars to Benjamin Walker, to reimburse the expenses incurred in the defence of a suit against himself, as an officer of the Commonwealth.

Approved April 5, 1859.

RESOLVE IN FAVOR OF WILLIAM TEWKSBURY.

Chap. 76.

Resolved, That there be allowed and paid from the treasury of the Commonwealth, to William Tewksbury, the sum of twelve hundred dollars, as an indemnity for the loss sustained by him in being deprived of the use and income of his beaches, situated in the town of Winthrop, by the effect of an act passed in the year one thousand eight hundred and fifty-six, entitled "An Act to protect Boston Harbor:" *provided*, that nothing in this grant or indemnity shall be construed into an acknowledgment of any legal title or claim of said Tewksbury, for such indemnity; and *provided, also*, that the above sum of twelve hundred dollars shall be in full satisfaction and discharge of any claim heretofore made, or hereafter to be made, by the said William Tewksbury, his heirs or assigns, against this Commonwealth, touching the subject matter of this resolve.

\$1,200 allowed as indemnity for loss sustained in being deprived of use and income of beaches.

Proviso.

Provided, also.

Approved April 5, 1859.

RESOLVE IN FAVOR OF JONATHAN DAY.

Chap. 77.

Resolved, That there be allowed and paid from the treasury of the Commonwealth, the sum of ninety-eight dollars and twelve cents, to Jonathan Day, of Worcester, for expenses and costs incurred in defence of a suit against him, as an officer executing the law of eighteen hundred and fifty-five, entitled "An Act concerning the manufacture and sale of spirituous and intoxicating liquors."

\$98.12 to Jonathan Day.

Approved April 5, 1859.

RESOLVE CONCERNING THE INSURANCE COMMISSIONERS.

Chap. 78.

Resolved, That the insurance commissioners be, and they are hereby authorized to receive the sum of eleven hundred and sixty-four dollars and eighty-two cents, being the amount paid into the treasury by life insurance companies, under section ten of chapter two hundred and fifty-two, of the acts of the year eighteen hundred and fifty-six, as compensation for assistance employed by them in making a valuation of the policies of said companies outstanding on the first day of November in the year eighteen hundred and fifty-eight; and the sum aforesaid is hereby appropriated to be paid out of the ordinary revenue of the Commonwealth.

\$1,164.82 granted as compensation for making valuation of life policies.

Approved April 5, 1859.

RESOLVE PROVIDING FOR THE PAY OF THE HONORABLE JAMES T. ROBINSON, LATE SENATOR FROM THE NORTH BERKSHIRE DISTRICT.

Chap. 79.

Resolved, That the sum of ninety-four dollars be paid to the Honorable James T. Robinson, late senator from the

\$94 to James T. Robinson.

North Berkshire District, for his compensation as senator from said district, up to, and including February third, in the year eighteen hundred and fifty-nine.

Approved April 6, 1859.

Chap. 80.

\$246 to Lydia Russell.

RESOLVE FOR THE COMPENSATION OF JAMES RUSSELL.

Resolved, That there be allowed and paid out of the treasury, under the appropriation for the compensation of members of the legislature, to Lydia Russell, wife of James Russell, a member of the house of representatives, the sum of two hundred and forty-six dollars, in addition to the sum already paid him, it being the amount to which he would be entitled for attendance during the whole of the regular session.

Approved April 6, 1859.

Chap. 81.

\$104 for support of Prince Johnson.

RESOLVE IN FAVOR OF FRANCIS N. LUCE.

Resolved, That there be allowed and paid from the treasury of the Commonwealth the sum of one hundred and four dollars, for the support of Prince Johnson, an Indian pauper, for the term of one year, ending the fifteenth day of February last past.

Approved April 6, 1859.

Chap. 82.

Trustees authorized to sell real estate.

RESOLVE ON THE PETITION OF THEOPHILUS PARSONS AND OTHERS FOR LEAVE TO SELL REAL ESTATE HOLDEN BY THEM IN TRUST.

Location.

Boundaries.

Resolved, For reasons set forth in said petition, that the said Theophilus Parsons, George H. Kuhn, Francis E. Head, Thomas B. Hall and Edward Bangs, trustees under the last will and testament of Benjamin Bussey, late of Roxbury, in the county of Norfolk, deceased, be, and they are hereby authorized and empowered to sell, either at public or private sale, for cash, the premises described in said petition, being a certain parcel of land situate in Boston, in the county of Suffolk, and bounded and described as follows, viz.: north-westwardly by the line of Devonshire Street, as established by a resolve of the city council of the city of Boston, passed the twenty-sixth day of June, in the year one thousand eight hundred and fifty-eight, there measuring fifty-four feet and seven-tenths of a foot; eastwardly by a passage way thirty-four feet and four-tenths of a foot; south-eastwardly by the same, on a curved line, seventeen feet and seventeen hundredths of a foot; southwardly by the same, nineteen feet and one-tenth of a foot; and westwardly by land lately conveyed by said trustees to the city of Boston, one foot and six-tenths of a foot, containing six hundred and fifty-five square feet, and twenty-eight hundredths of a foot, more or less, or however other-

wise bounded or described, the same being shown on a plan made by N. Henry Crafts, dated October eleven, eighteen hundred and fifty-eight, and filed with the plans of said city: *provided*, that the said trustees shall hold, manage and use the proceeds of said sale, for the uses and purposes, and upon the same trusts, for which they now hold said real estate, and for no other: *provided*, that this resolve shall not be construed to impair any existing leases on said premises.

Proviso.

Proviso.

Approved April 6, 1859.

RESOLVE AUTHORIZING THE TREASURER OF THE COMMONWEALTH TO FURNISH THE TOWN OF NEW SALEM WITH A SET OF STANDARD WEIGHTS, MEASURES AND BALANCES.

Chap. 83.

Resolved, That the treasurer of the Commonwealth be authorized and directed to furnish to the treasurer of the town of New Salem, a complete set of the standard weights, measures and balances, such as the treasurer of each town is required to keep by the provisions of the two hundred and forty-second chapter of the acts of the year eighteen hundred and forty-seven, to be kept by said treasurer according to the provisions of the three hundred and thirty-second chapter of the acts of the year eighteen hundred and forty-eight.

Treasurer directed to furnish.

Approved April 6, 1859.

RESOLVE FOR PAYING THE EXPENSE OF SERVING AN EXECUTIVE WARRANT.

Chap. 84.

Resolved, That there shall be allowed and paid to the sheriff of the county of Suffolk, the expenses of serving the executive warrant in the case of James McGee, and that for the purpose aforesaid there is hereby appropriated out of the ordinary revenue, a sum not exceeding one hundred and twenty dollars.

\$120 to sheriff of Suffolk.

Approved April 6, 1859.

RESOLVES PROVIDING FOR THE PUBLICATION OF CERTAIN SPECIAL LAWS.

Chap. 85.

Resolved, That the special acts of this Commonwealth, passed subsequently to the year one thousand eight hundred and forty-eight, be collated and published under the direction of the secretary of the Commonwealth, in volumes as nearly as may be in conformity with the volumes of the special laws heretofore published, and that a full and complete index of the matter contained therein, be appended to each volume.

Secretary to publish special acts passed since 1848.

Resolved, That two thousand copies of the special laws aforesaid shall be printed, and shall be distributed as follows: One hundred copies for the use of the various offices

Distribution.

and committee rooms, and for the two branches of the legislature; two hundred copies for the state library, for duplicates and exchanges; one copy to each city and town in the Commonwealth; one copy to each member of the present legislature; one copy to each public and incorporated library in the Commonwealth; and the remaining copies to be disposed of by the secretary of the Commonwealth to individual purchasers at cost: *provided*, that no copies shall be sold for the purposes of resale.

Approved April 6, 1859.

Chap. 86.

RESOLVE IN FAVOR OF THE DUDLEY INDIANS.

\$400 for clearing land, &c.

Resolved, That there be allowed and paid out of the unexpended appropriation of May twenty-ninth, of the year one thousand eight hundred and fifty-seven, for the clearing and fencing of the land occupied by the Dudley Indians, and for erecting woodsheds upon the same, the sum of four hundred dollars, to be expended under the direction of the selectmen of the town of Webster.

Approved April 6, 1859.

Chap. 87.

RESOLVE GRANTING TAXES FOR THE SEVERAL COUNTIES.

Resolved, That the sums placed against the names of the several counties in the following schedule be, and hereby are, granted as a tax for each county respectively, to be assessed, paid, collected and applied according to law, namely:

Sums to be assessed.

Barnstable—Fourteen thousand dollars:

Berkshire—Twenty-four thousand dollars:

Bristol—Fifty-six thousand dollars:

Dukes County—Three thousand and two hundred dollars:

Essex—Ninety thousand dollars:

Franklin—Eighteen thousand dollars:

Hampden—Thirty thousand dollars:

Hampshire—Twenty-one thousand dollars:

Middlesex—Ninety-eight thousand dollars:

Norfolk—Fifty thousand dollars:

Plymouth—Thirty thousand dollars:

Worcester—Ninety thousand dollars; ten thousand dollars, at least, to be applied to the payment of the county debt.

Approved April 6, 1859.

Chap. 88.

RESOLVE IN FAVOR OF THE HASSANAMISCO TRIBE OF INDIANS.

\$1,000 allowed on account of loss to fund by failure of a trustee.

Resolved, That there be allowed to the Indians of the Hassanamisco tribe, out of the treasury of the Commonwealth, the sum of one thousand dollars, to be paid over to

the judge of probate and insolvency of the county of Worcester, and by him invested or disbursed at his discretion, for their benefit, in such manner as shall most effectually meet the present or future wants and necessities of the surviving members of said tribe of Indians; and in payment of the claim of Gilbert Walker, or of any other claims which may exist for their former support; this allowance being made on the ground of a loss of a part of the fund belonging to said tribe of Indians, by the failure of one of the trustees in charge thereof, appointed by the Commonwealth. And said judge of probate and insolvency shall annually report to the general court his proceedings in relation to this allowance.

Approved April 6, 1859.

RESOLVE AUTHORIZING THE ERECTION OF A STATUE OF DANIEL WEBSTER WITHIN THE STATE HOUSE GROUNDS.

Chap. 89.

Resolved, That full consent and permission, upon the part of the Commonwealth, is hereby given to the application of the executive committee of one hundred, on the "Webster Memorial," to set up the statue of the late Daniel Webster upon any suitable spot within the state house grounds, which may be approved by the commissioners of the state house, and the chairman of the joint standing committee on the state house upon the part of each branch of the general court: *provided*, that the same be done at the expense of the "Webster Memorial Fund."

Erection authorized.

Proviso.

Approved April 6, 1859.

RESOLVE ON THE PETITION OF THE SELECTMEN OF THE TOWN OF SUNDERLAND.

Chap. 90.

Resolved, For reasons set forth in said petition, that there be allowed and paid out of the treasury of the Commonwealth, to the treasurer of the town of Sunderland, the sum of one hundred and thirty-five dollars and forty-nine cents, in full, for the support, medical attendance and funeral expenses of Emeline Coggsell, a state pauper; and that the governor be authorized to draw his warrant accordingly.

\$135.49 allowed for support, &c., of a state pauper.

Approved April 6, 1859.

RESOLVE IN FAVOR OF MOSES BROWN.

Chap. 91.

Resolved, That there be allowed from the treasury of the Commonwealth to Moses Brown, of Newburyport, for medical services rendered to the Christiantown Indians, the sum of seventy-five dollars.

\$75 to Moses Brown.

Approved April 6, 1859.

Chap. 92.

Probate court to
appoint a trustee
under the will of
Luther Hall.

RESOLVE ON THE PETITION OF FRANKLIN HALL.

Duties of trustee.

Resolved, That for the reasons set forth in said petition, the probate court within and for the county of Worcester, be and it hereby is authorized, upon the petition of the executor, residuary legatee, or other interested person named in the last will and testament of Luther Hall, late of Sutton, in said county, deceased, duly approved and allowed in said court, March second, eighteen hundred and fifty-eight, and after notice to all persons interested, to appoint a trustee to receive the amount of the legacies, mentioned in said will, to Hannah B. Stockwell and Anna Maria Stockwell, minors and grandchildren of said deceased ; and upon the payment of the full amount of said legacies to such trustee, the estate of said deceased shall, by force of this resolve, be discharged from all liability on account of said legacies : and the trustee so appointed shall receive said legacies, and hold, invest and account for the same, together with the interest that may accrue thereon, for the use and benefit of said minors, subject to the same contingencies, in relation to the death of said legatees or either of them, as mentioned in said will, and shall pay over said legacies according to the provisions of said will ; and in case of the death or resignation of any trustee, appointed as aforesaid, the said court shall appoint a new trustee, and the trust estate shall vest in him, in like manner as it did or would have vested in the trustee in whose place he is substituted ; and said court may moreover, order such conveyances to be made by the former trustee, or his representatives, as may be proper or convenient to vest in the trustee newly appointed, the estate and effects that are to be held in trust ; and every trustee so appointed by said court shall be required to give bonds with good and sufficient sureties, for the faithful performance of his duties as trustee ; and said court of probate may pass all orders and make such decrees in relation to said trust, as justice and equity may require ; and this resolve shall take effect from and after its passage.

Approved April 6, 1859.

Chap. 93.

RESOLVES FOR REPRINTING A REPORT ON THE INSECTS OF NEW ENGLAND, WHICH ARE INJURIOUS TO VEGETATION.

Secretary board
of agriculture to
obtain right to
print 2,500.

Resolved, That the secretary of the board of agriculture be, and he is hereby authorized to obtain from the legal representatives of the late Thaddeus W. Harris, M. D., the right to print an edition of no more than twenty-five hundred copies of his report on the insects of New England which are injurious to vegetation, which was presented to the legislature in eighteen hundred and forty-one.

Resolved, That the secretary of the board of agriculture cause the authorized number of copies of said report to be printed as soon as may be, with suitable additions and illustrations; and that he be authorized to procure such assistance as may be necessary therefor.

May make additions and illustrations, and print soon as may be.

Resolved, That of this new edition there be presented to each of the incorporated agricultural societies, receiving the bounty of the state, and to each of the incorporated horticultural societies of the state, fifteen copies, to be awarded as premiums by these societies; that one hundred copies be placed at the disposal of the governor and council for such gratuitous disposition as they may think proper; that fifty copies be placed at the disposal of the secretary of the board of agriculture; that each town within the Commonwealth shall have one copy, to be placed in its public library; and that each member of the present legislature, also each officer and reporter, and each of the trustees of the state library, shall receive one copy; and that the remainder of this edition be left at the control of the legislature.

Distribution.

Resolved, That a sum not exceeding eight thousand dollars be, and the same is hereby appropriated for the purchase of the right to print said edition, and for the use of the plates now in the possession of the personal representatives of said Harris, and for the republication of the same in accordance with the provisions of the foregoing resolves.

\$8,000 appropriated.

Approved April 6, 1859.

RESOLVE IN AID OF THE NEW ENGLAND MORAL REFORM SOCIETY.

Chap. 94.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, one thousand dollars, in aid of the New England Moral Reform Society, to be used by its officers in furtherance of the benevolent designs of that corporation.

\$1,000 to be expended by officers of the society.

Approved April 6, 1859.

RESOLVE PROVIDING FOR THE SALE OF THE HOUSE HERETOFORE OCCUPIED BY THE SERGEANT-AT-ARMS.

Chap. 95.

Resolved, That the estate owned by the Commonwealth, with the house thereon, numbered twelve, in Hancock Street, in the city of Boston, heretofore occupied by the sergeant-at-arms, be sold by the commissioners on the state house, as soon as may be, advantageously for the interests of the Commonwealth; and the proceeds of such sale shall be placed in the treasury, to be applied as may hereafter be provided by law; and one year's interest, at the rate of six per cent. on the amount of such proceeds, shall be paid to the sergeant-at-arms in addition to his salary for the present

Commissioners on the state house to sell, &c.

One year's interest on proceeds of sale to be added to salary of sergeant-at-arms.

Proviso.

year: *provided*, that the estate shall first be advertised two weeks, at least, in four daily papers published in the city of Boston, and the sale shall be at public auction; and said commissioners are hereby authorized to execute, in behalf of the Commonwealth, a deed of said estate to the purchaser thereof.

Approved April 6, 1859.

Chap. 96. RESOLVE IN ADDITION TO THE RESOLVE PROVIDING FOR THE SALE OF THE HOUSE HERETOFORE OCCUPIED BY THE SERGEANT-AT-ARMS.

Appropriation for additional allowance to sergeant-at-arms.

Resolved, That a sum of money equivalent to six per centum upon the purchase money, if any, which may be received for the sale of the house heretofore occupied by the sergeant-at-arms, is hereby appropriated, to be paid out of the ordinary revenue, and that the governor may draw his warrant therefor, in favor of the present sergeant-at-arms.

Approved April 6, 1859.

Chap. 97. RESOLVE IN AID OF THE WASHINGTONIAN HOME.

\$2,000 to be expended by the directors.

Resolved, That the sum of two thousand dollars be, and the same is hereby appropriated, to be paid out of the treasury of the Commonwealth, to the treasurer of the Washingtonian Home, to be expended by the directors of said institution, for the purpose of providing a retreat for inebriates, and means for reforming them, and that the governor be authorized to draw his warrant therefor accordingly.

Approved April 6, 1859.

Chap. 98. RESOLVE IN RELATION TO THE COMMISSIONERS FOR THE REVISION OF THE STATUTES.

\$6,000 to commissioners.

Resolved, That there be allowed and paid to the commissioners for the revision of the statutes, the sum of six thousand dollars, on account of services by them rendered.

Approved April 6, 1859.

Chap. 99. RESOLVE IN FAVOR OF ADDISON PRENTISS.

Trustees Reform School authorized to pay \$181.93 for views, &c.

Resolved, That the trustees of the state reform school at Westborough, be and they are hereby authorized, out of moneys appropriated for the current expenses of said school, to pay to Addison Prentiss the sum of one hundred and eighty-one dollars and ninety-three cents, for services performed by him for said school, in drafting, lithographing and printing views of said state reform school, and for materials furnished for said work; the said views being the same referred to in the annual report of the trustees of said school, of the year one thousand eight hundred and fifty-three.

Approved April 6, 1859.

RESOLVE AUTHORIZING THE APPOINTMENT OF AN AGENT FOR THE PROSECUTION OF THE CLAIMS OF THIS COMMONWEALTH AGAINST THE GOVERNMENT OF THE UNITED STATES.

Chap. 100.

Resolved, That the governor, with the advice and consent of the council, be authorized to appoint an agent to co-operate with a similar agent, appointed by the governor of the state of Maine, in the prosecution of the claims of this Commonwealth against the government of the United States; that the service of such agent shall continue through, and terminate with the thirty-sixth congress; and that the compensation to such agent shall be fixed by the governor and council; and the same so fixed, shall be paid, upon the warrant of the governor, out of such moneys as may be procured from the general government by such agent.

Governor to appoint agent.

Duration of service.

Compensation.

Approved April 6, 1859.

RESOLVE RESPECTING CERTAIN APPROPRIATIONS FOR THE DUDLEY, TROY AND MARSHPEE INDIANS.

Chap. 101.

Resolved, That there be allowed and paid to the guardians of the several Indian tribes, for the support of said Indians, and for the salaries of said agents, for the year ending the thirty-first day of December, in the present year, to be paid from the appropriations of the present year, for Indians, the following sums, that is to say: to the guardian of the Dudley Indians, for their support, a sum not exceeding six hundred and fifty dollars, and for the salary of said guardian, the sum of one hundred dollars; to the guardian of the Troy Indians, for their support, a sum not exceeding four hundred dollars, and for the salary of said guardian, the sum of one hundred dollars; to the treasurer of the Marshpee Indians, for the support of certain paupers, a sum not exceeding one hundred and fifty dollars.

Sums appropriated.

\$650 to Dudley Indians.

\$100 to guardian.

\$400 to Troy Indians.

\$100 to guardian.

\$150 to Marshpee Indians.

Approved April 6, 1859.

RESOLVE IN FAVOR OF THE DISTRICT OF MARSHPEE.

Chap. 102.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, to the treasurer of the district of Marshpee, the sum of seven hundred and fifteen dollars, to reimburse said district the amount paid for making roads, ordered by the county commissioners, through said district of Marshpee; and said sum is hereby appropriated for that purpose.

\$715 for making roads.

Approved April 6, 1859.

RESOLVE CONCERNING FLATS AND SHORES BELONGING TO THE COMMONWEALTH.

Chap. 103.

Resolved, That the land agent shall have charge of all lands, flats, shores and rights in tide waters belonging to the

Land agent to have charge of all lands except,

&c., and ascertain condition, &c.

Commonwealth, except the Back Bay lands and other lands and rights now by law provided for ; and it shall be his duty, as far as practicable, to ascertain the location, extent and description of such property, investigate the title of the Commonwealth thereto, ascertain what parts thereof have been granted away by the Commonwealth, the conditions on which such grants were made, and whether said conditions have been complied with, what portions have been encroached or trespassed on, and the rights and remedies of the Commonwealth in relation thereto, prevent further encroachments and trespasses, ascertain what remaining portions of such property may be leased, sold or improved, with benefit to the Commonwealth and without injury to navigation and the rights of riparian owners, and make report to the governor and council ; and he may, with the approval of the governor and council, require the services of the attorney-general, and employ such surveyor or surveyors, as may be necessary to accomplish, either in whole or in part, the objects aforesaid.

May require services of attorney-general.

Surveyors.

May lease said property.

Resolved, That whenever it shall appear to the governor and council, to be for the benefit of the Commonwealth, and not injurious to navigation and the rights of riparian owners, the land agent may, with the approval of the governor and council, lease any parts of such property for periods not exceeding five years, for purposes not injurious to navigation or riparian owners, on such terms of use, occupation and rent, as they shall determine.

When riparian owners may make improvements upon terms fixed by governor and council.

Resolved, That whenever riparian owners may desire to construct or extend wharves on their own or the Commonwealth's property, aforesaid, or to otherwise use and improve the same, and it shall appear to the governor and council, after due notice, given in such manner as they shall prescribe, to all parties interested, that the same may be done without injury to navigation and the rights of riparian owners not joining in such improvement, and will be for the benefit of the Commonwealth, the governor and council may fix the terms and conditions, and the prices to be paid to the Commonwealth, on and for which such riparian owners may so construct and extend wharves and make such uses and improvements, and purchase and acquire from the Commonwealth the right so to do, or all its rights in such property ; and the land agent may, under their direction, sell the same upon the terms so fixed as aforesaid ; and the governor and council shall have full power and authority to represent the Commonwealth, in all differences, disputes and claims with riparian owners or other parties, respecting the aforesaid

Governor and council to represent Commonwealth in all disputes with riparian owners.

property of the Commonwealth, and the same to sue for, defend, arbitrate, adjust and settle, as the interests of the Commonwealth, the protection of navigation, and the rights of riparian owners may require; and the land agent, with the approval of the governor and council, may, and whenever directed by them shall, in behalf of the Commonwealth, execute and deliver all deeds and instruments necessary or proper for the conveyance of the rights and interests of the Commonwealth in any of the aforesaid property, sold as aforesaid, or for carrying into effect any adjustment or settlement made by the governor and council, as aforesaid; and all sums of money to be paid therefor, he shall receive and pay into the treasury of the Commonwealth. But nothing in this or the preceding resolve shall authorize the extension of any structure from the shores or wharves of Boston, Charlestown or Chelsea, beyond the commissioners' lines, now or hereafter established by the legislature, in the harbors of Boston and Charlestown, defining the limits beyond which structures shall not be extended.

Extension beyond the commissioners' lines not authorized.

Resolved, That all deeds, instruments and writings made by the land agent, as aforesaid, shall be by him recorded in the records of the land office, and all title deeds, maps, charts and surveys relating to the aforesaid property shall be there deposited and kept.

Land agent to keep records, &c.

Resolved, That the Back Bay commissioners shall have the custody of all original deeds, instruments, maps, charts, plans and surveys relating to the Back Bay lands, and shall keep a record of all deeds, instruments and agreements made by them, and the same shall be deposited by them in the land office at the expiration of said commission; but they shall, as soon as may be, cause attested copies of all thereof to be made and deposited in the land office, where the same shall be kept on file by the land agent.

Back Bay commissioners to keep original deeds, record of own doings, &c.

Resolved, That the governor and council be authorized to represent the Commonwealth and protect its interests, and to co-operate in all scientific surveys, which may be made by the United States government, of harbors, rivers, shores or waters within the Commonwealth.

Surveys made by the United States.

Approved April 6, 1859.

A D D E N D A .

The legislature of 1859 passed 273 Acts and 103 Resolves, which received the approval of the governor. In addition to these, an Act, entitled "An Act concerning the sale of Wheat, Corn, other Grains and Meal," and a Resolve entitled "Resolve concerning the Compensation of Members of the Legislature for the Extra Session, and of the Committee on the Revision of the Statutes," were "laid before the governor for his revision," and were returned by him to the branches in which they respectively originated, with his objections thereto: being placed upon their final passage, "notwithstanding the said objections," in the manner provided by the Constitution, and two-thirds of the members failing to "agree to pass the same," they were accordingly declared lost.

A "Resolve for the Payment of Clerks, Door-keepers, Messengers and Pages during the extra session of the Legislature, and during the session of the Committee appointed to sit during the recess," was also sent to the governor, but being similar in character to that concerning the compensation of members of the legislature and of the committee, which was returned to the House of Representatives, it was accordingly retained by the executive, and, as provided by the constitution in such cases, failed to "become a law or have force as such"—the legislature having adjourned within five days thereafter.

The amount of appropriations which have been made from the ordinary revenue, for the maintenance of the government, and for other purposes, for the present year, is \$993,020.44, including the expenses of the Committee on the Revision of the Statutes to sit during the recess; and for expenses incurred in former years, \$61,816.82—to cover which there are unexpended balances of appropriations of the year 1858, estimated at \$10,000.

The general court was prorogued to Wednesday, the seventh day of September; at which time it was resolved to convene for the purpose of completing the revision of the General Statutes of the Commonwealth, commenced by the Commissioners appointed for that purpose, and to be submitted to the legislature at that time by the Committee appointed to examine and consider the same during the recess.

CLASSIFICATION OF ACTS.

General Statutes, or Acts of a public character, . . .	177
Special Acts, relating to individuals and corporations, . .	96—273

INAUGURAL ADDRESS

OF

HIS EXCELLENCY NATHANIEL P. BANKS.

REPRESENTATIVES' CHAMBER, }
Jan. 7, 1859. }

At one-half past twelve o'clock, His Excellency the Governor, accompanied by His Honor the Lieutenant-Governor, the members of the Executive Council, and officers of the civil and military departments of the government, attended by a Joint Committee of the two Houses, and the Sheriff of Suffolk, met the Senate and House of Representatives, in Convention, and delivered the following

A D D R E S S .

SENATORS AND REPRESENTATIVES :

At the time appointed by the Constitution we have assembled as representatives of the people, for the purpose of considering what assistance and support the interest of those we represent, and the public service, may demand of legislative power. In thus opening another political year, the evidences of public health, peace and prosperity which surround us, prompt us not more to a public recognition of our dependence upon the mercies of Divine Providence, than to a silent and grateful acknowledgment for signal blessings heretofore bestowed upon our people.

The seasons have been favorable to agricultural industry, and in every part of the Commonwealth its labor has been generously rewarded. The product has been more than a tenth part larger than in any preceding year, giving a value in staple crops and minor farm products, upon careful inquiry

and estimate, of thirty-two million dollars,* against a value of twenty-eight million four hundred thousand, returned by assessors in 1855. An unusual public interest in this pursuit has been manifested, and the county exhibitions have been attended by greater numbers than heretofore. Nearly \$12,000 have been paid from the treasury, to twenty-one societies. Were it not for the general interest and success exhibited by this department, it would seem to present a somewhat defective arrangement. Originally intended to embrace large sections of the Commonwealth, each society has been subdivided, until a single county numbers two, three or more rival organizations. There are political and moral, as well as financial results, produced by expositions of industrial wealth. In periods of pending revolution they have represented the power of the people against rulers; and when society is undisturbed they are unerring evidences of prosperity and peace. Their full success demands, however, aggregation of product, as well as variety. What is done for this interest, should be done for the State, whose prosperity in all industrial pursuits represents and limits individual success. This consideration would justify a less absolute reliance than that now existing upon county agricultural societies.

Festive occasions, like county exhibitions, restricted in time and crowded with appointments, do not allow extended opportunity for intelligent comparison, or elementary and practical discussion. A more effective organization might be formed, with the concurrence of that now existing, which would afford very largely increased advantages with but slight addition to the charge upon the treasury. Town societies, formed for purposes of discussion, might be assisted by agents representing the Board of Agriculture, as now educational agents represent that department; not merely by lectures, but ultimately by courses of practical, elementary and scientific discussion. To town societies thus supported—the counties still maintaining their annual local expositions—should be added, in periods of three or five years, a State exhibition, concentrating its industry and offering opportunities for exhibition, comparison and discussion, now never presented.

Notwithstanding the sterility of our soil, and the severity of our climate, no civilized state in the history of man ever presented greater evidences of prosperity than the enterprising and hardy sons of Massachusetts have wrought out of

* Supplementary Document, [B.]

the simple elements of nature, upon a territory which our fathers declared upon taking its possession was but "bare creation." The first glimpses of national wealth they found in the limitless seas, that never fail to surrender their wealth to those who patiently seek it; which pay no taxes, and know no charters of possession or ownership, except those signed and sealed by the hand of hardy industry. A territorial area as large as that now employed for tillage and mowing, or covered by road and rivers, embracing some of the most fertile spots of the Commonwealth, has lain unproductive and idle for two hundred years, and young men are yet going west after land and markets. We have coined wealth from commodities that we export to warmer latitudes, of which the very rigors of the climate constitute a principal part. Were every known source of industrial wealth annihilated, we could reclaim it from the seas, and, re-stocking our rivers with fish native to their waters, re-create a source of prosperity, the monopoly of which would afford an income not realized in some of the most favored lands. Has the legislature ever been called to witness the aggregation of what our industry really is, or what it promises to be? I have never seen it. Assuming executive duties at the opening of the past year I had thought an opportunity was presented, which promised me this pleasure. But of twenty-one exhibitions the principal part were in the same week: two agricultural expositions within seven miles of each other, on the same day, in a county with a population of 32,000, and an estate valuation of less than \$12,000,000—that sufficiently illustrates our system. We spend no small amount of time in discussions in which caprice overthrows opinion, and emotion is mistaken for principle, and thus lose the opportunity of presenting in substantial aggregates, the accumulations of industry, intelligence and liberty, which never failed and never can fail, to impress the world with a sense of power, whenever presented. THE STATE is the unit of our industrial system, and nothing should be disregarded which enlarges its resources, develops its wealth, or concentrates and controls its trade, in which lie the secrets of power and prosperity.

The manufacturing interest, so heavily oppressed during the late financial crisis, and which has failed to receive that direct recognition which every branch of American industry may justly demand, though paralyzed by partial losses, is steadily advancing, and the energy and skill which planted it upon soil so far removed from the staple commodities which it works, will, I trust, at no distant day, re-establish

something of its ancient prosperity. I recommend to you a favorable consideration of all measures which are designed to promote the interests of those who by investment of capital or labor are dependent upon its success. It may be expedient to inquire what improvement can be made in legislation relating to other industrial interests.

The assessors' valuation of estates, to which your attention will be called in another connection, exhibits a reduction in the valuation of one of the smaller maritime counties, for the present year, compared with last, of one million two hundred ninety-eight thousand dollars, and indicates a corresponding depreciation, I regret to say, in maritime pursuits and in navigation. With this exception, I believe the industry of the State presents no unfavorable aspect.

The munificent charities of the Commonwealth have been faithfully administered. Increased attention has been given to those who are recipients of its bounty, and the various institutions exhibit satisfactory evidences of careful economy, patient energy, capacity and success, on the part of those who have been charged with duties of supervision. It has been especially gratifying to witness improvements in the management of lunatic hospitals. Every evidence of force or violent restraint has been removed. The prison-like stone cells which were seen a few years since, have disappeared, and the same persons who were then wearing away in solitude a life of naked misery, are now seen comfortably clad, moving quietly about through spacious and airy corridors. That which restraint and force failed to accomplish has been attained through other agencies more directly affecting the mind of patients. Books and periodicals are of this class, and more recently it is found that engravings, procured at trifling expense, produce beneficial effects upon the worst class of patients. It is apparent, that persons wholly incapable of that attention which reading or study requires may be impressed by casual observation, or more careful study of engravings. It is an influence which may be perfectly adapted to the condition of different patients, and is certainly a cheering substitute for the torture which insane persons have suffered in other ages. In order that its full advantages may be realized without unnecessary delay, I recommend that a small annual appropriation be made, for a limited period, to be expended for this purpose under the direction of the trustees or superintendents of the several hospitals.

The large proportion of foreign born patients found in our hospitals suggests important considerations. The native

and foreign born are not affected in the same way by discipline. The American patient yields more readily to persuasion, and resists coercion, while the foreign patient, by education and custom, is more submissive to the voice of authority. It may be deemed expedient, at some time hereafter, to separate these classes, so that subordinate officers and attendants may be selected, who, by education as by nature, may be best able to inspire confidence, and enforce that restraint, which the welfare of these unfortunate people demands.

By a statute of 1857, the treasurers of the several hospitals are authorized to charge the Commonwealth with the support of patients not having any known settlement therein, at "the same rates that they charge for other lunatics residing therein," instead of the fixed compensation formerly paid. This change in the law will not operate favorably, either as it regards the interests of the Commonwealth or the reputation of the hospitals. The state has paid for the construction of buildings and the support of insane persons, in the aggregate \$980,713, and it supports annually from four to six hundred persons. Upon either consideration it is entitled to the discrimination which was formerly made. But the change is liable to graver objection. If the annual expenses of the hospitals can be divided among state patients, secure of their support, their superintendents are in part relieved from the necessity of that vigilant exertion, which is required to maintain the reputation of the establishments, so as to attract private patients of our own or neighboring states; and they will gradually fall below the standard of excellence hitherto maintained. Whatever sum is paid from the treasury for the support of patients, should be in my judgment a fixed compensation, and if it prove inadequate to the support of the hospitals, let the deficit be supplied by direct legislative appropriation.

The reports relating to the state almshouses exhibit improvement and increased economy in their management. A still greater reduction in their cost can be made, and a very careful examination in their operations, and of the principles upon which they are established, is required. The policy we have adopted for the support of paupers, not having any known settlement in the Commonwealth, is one of exclusive in-door relief. Our institutions are modeled apparently upon the present English pauper system. England has erected and supports six hundred and forty-five of these establishments—while we have but four—that were intended originally as a substitute for the system of out-door

or parish relief. The returns of the past year indicate that it has been a partial, if it do not prove an entire failure. The grand register shows that up to July 1, 1858, one hundred and eleven thousand paupers had received in-door relief, while seven hundred and fourteen thousand had received out-door relief, according to the system formerly existing. With twelve metropolitan work-houses, and six hundred and forty-five union work-houses, to be supported with all their officers and machinery, England has still to furnish relief to six-sevenths of her paupers outside, who are unwilling to take refuge in her work-houses.

A similar result follows our system. We support outside all our own paupers of native or foreign birth, who have known settlements: and we support also our almshouses, crowded with paupers drawn in upon us from every part of the world, under the delusive representation of interested parties, to be maintained for indefinite periods, or re-transported by us to the different parts of the world from whence they came. We have supported an average, for the year past, of twenty-eight hundred paupers, and have removed to the places whence they came, three thousand two hundred and sixty-seven in the same time.

Another consideration has a more important bearing. The almshouses—crowded with men, women and children, many of them helpless from infancy, infirmity or age—are composed of materials so combustible that it would be difficult, in the event of conflagration, to avoid an appalling loss of life. I do not think that we are prepared to enter upon the construction of fire-proof buildings in place of the present structures; and I am therefore compelled, hesitatingly, to advise the legislature to refrain from further expenditures, except such as may be necessary for the security of life; to enforce a more rigid economy in their management, and prepare for a gradual change of the system. I respectfully ask the attention of the legislature to this subject, and I cheerfully commend the general conduct of the officers of the almshouses and those attached to the alien commission, in the performance of very difficult duties.

There are few of the state charities that present more gratifying results than those bestowed upon the remnants of Indian tribes that remain among us. Of those that I have seen, the Marshpees are most numerous, and in the best condition. Within a few years intemperance and other vices were common among them, and their public meetings were often disturbed by riotous proceedings. They are now

much improved. They are temperate and industrious, regular attendants upon their church, and commit very few crimes against persons or property. They have constructed some of the best roads in their vicinity; their public assemblies are orderly, and in the election of their officers their choice falls upon their best men, with the same unerring sagacity exhibited by the white race, in the exercise of similar powers. They have two schools of about thirty pupils each. It is stated by their guardian and their pastor, that they have been without crime or disturbance, for five years past, except when intoxicating drink has been supplied by white men. I would recommend severer penalties against those who furnish them with spiritous liquors. I recommend also a slight addition to their school fund, for the purchase of books, as an encouragement to pupils and parents, as well as to their teachers who have been faithful to their trusts. I transmit to the legislature such information as I have been able to obtain of other tribes, among whom are families that retain some of the qualities of the royal races of red men. They are the only monuments left of the powerful races from whom we received the land we occupy, and from whose spoken tongue Elliot constructed a written language into which he translated the Holy Scriptures. Of Elliot's Bible two editions were printed, copies of which still remain in our public libraries; but no person lives who can reconstruct or interpret therefrom the language then spoken by the Indian nations.

The increase of officers at the state prison consequent upon recent events, and the depressed condition of trade which makes the labor of convicts less remunerative, render an appropriation requisite for the present year, but less is required than that of the past year. The prison has never constantly supported itself, but can be made to do so. Increased vigor and more careful economy have been infused into its management. Humanity as well as justice and policy demands of the legislature a constant regard for the health and personal comfort of the convicts. It is indispensable, among other things, they should have sufficient light and air. There is a portion of the prison in which convicts are now confined, that is deficient in this respect. An appropriation of seven thousand dollars, I am informed, will be sufficient for the change recommended, which should be made, and the charge therefor added to the prison construction debt. Cheerful and instructive libraries should be furnished them. I would also suggest the expediency of enlarging the discretionary powers of the warden, as to

rations furnished, or other articles that in his judgment may contribute to the health or comfort of prisoners, and perfect the discipline of the prison. The statute authorizing the remission of a limited portion of the term of imprisonment upon proof of good behavior requires amendment, so that it may operate equally upon all convicts. The principle of the statute is wise and its effects salutary, and it may safely be extended. The jails and houses of correction are in good condition, so far as I have been able to examine them; they are healthy, the prisoners well fed, well clothed, supplied with books, and kindly treated.

The returns of these institutions as to the number and condition of prisoners, which are in some respects of great value if correct, are irregular and defective. The information required should be specified by statute in order that the returns may be uniform as it regards prisoners, and also that the uniformity may extend to series of years. I transmit a tabulated statement of such returns as have been made for a period of ten years, which embodies important information. The state reform school at Westborough, and the state industrial school at Lancaster, are represented to be in very prosperous condition.

The commissioners appointed for the revision of the statutes, have completed the work assigned them. If the revision shall prove to be well executed, and the character of the commission leads to that conclusion, it will be of great public service. A work of such extent and character calls for very careful examination by the legislature, and in conformity with established precedent, as well as that it may receive exclusive attention, a special session will be necessary. This revision of the statutes was commenced by authority of a law passed in 1854. When completed it will serve as the general code of laws for the next quarter century. There is no principle of justice upon which the cost of this revision, either as it regards legislative consideration, or the printing of the work for the use of the people hereafter, if the legislature concur in the revision, should be charged as the current expenditures of this year, and included in the existing burdensome state tax. I recommend, therefore, that the expense of the work be added to the public debt, and I make this recommendation not only upon the grounds I have stated, but also upon the ground that payment of every dollar of the public debt existing is already provided.

The statute of 1858, consolidating the courts of probate and chancery, has operated favorably. It has brought before

the same tribunal causes of cognate principle and character, heretofore separated: it will diminish expenses of suitors, and ultimately increase the receipts of the treasury. It secures to the judges also liberal and sufficient salaries. There is no principle more important than this. Fixed compensation for public services is one of the important features which distinguish republican from despotic forms of government. To no class of public servants does it apply with so much force as to judicial officers. The just determination of judicial causes requires the union of rare abilities—the highest integrity, great intellectual capacity, and extended and varied mental culture. They are invested with life tenures of office, and are expected chiefly to abstain from active participation in business transactions. It is not possible nor expedient to pay the most competent men as much for such services as would be received by them in successful professional life; but they have a right to demand, accepting judicial position, that such compensation shall be made for their services as will enable them to maintain with economy, the dignity of their position and the honor of the state. It will be manifest that salaries mainly established a quarter of a century ago, and since not greatly increased, although adequate when established, must be insufficient now. I suggest to you, therefore, the inquiry, whether the present salaries of the judges of the supreme court is a just and liberal compensation for the services they render to the state: and if you concur with me in opinion that it is not, I recommend that it be enlarged by the addition of one thousand dollars to the compensation of each judge. I make this recommendation not so much for the judges as for the people, in order that they may select for their service the best men, whether with or without fortune, and who, when thus selected, and strengthened by experience and study for the discharge of their duties, may be able without injury to themselves, to continue in service and in the enjoyment of official honors with which they have been invested with their own consent and by the choice of the people. But I deem it proper also to say, in reference to the condition of the treasury and the taxes of the people, that such increase of salary, if established, should be made to take effect on the first day of January, 1860.

The report of the adjutant-general represents the department of the militia to be in more prosperous condition, and the troops in more perfect discipline than heretofore. The number of enrolled men is 147,682. The number of men in active service is 5,771. The expenditures of the depart-

ment for the past year have been \$65,185; nearly \$7,000 less than in 1857, and \$14,000 less than in 1856. The division encampments during the past year were distinguished by attention to discipline, and with one exception—affecting only a very small portion of the troops—by unusual propriety and decorum; a result that is to be attributed in a great degree to the excellent and manly example of the general officers who prohibited intoxicating liquors in their respective camps. When Napoleon thought it of sufficient importance to announce in his army bulletins, that “the army of Italy bivouacked without strong drinks,” it would seem, as it has proved, that holiday encampments among us, could be conducted on the same principles. While I find great pleasure in awarding to the militia the highest commendation for its excellent condition, I also feel that it is my duty to suggest that careful examination should be made of the principles of organization upon which it is based. Under the present system, the militia consists chiefly, when truly considered, of detached and independent companies, brought into brigade or division lines, only at long intervals of time, and not in every instance perfectly acquainted with regimental officers or discipline. This system of independent companies is a departure from the principles established in the original organization of our militia, which was effected at a special session of the general court in 1636, when three regiments were raised, of which the field officers were appointed by the magistrates, and the company officers nominated by the troops. The regiment should be the unit of organization, and companies subdivisions only of that unit. No commonwealth has better material than our own for effective military organizations, and properly established upon the regimental basis, it would present citizen soldiers unsurpassed by any on this continent, either in regular or volunteer service. There is necessity for more clearly defined general regulations for the military forces of the state than now exists. It is proper that Massachusetts should have a military code of her own, which, while it should recognize and enforce the constitutional authority of the United States, should be also adapted to the conditions and wants of her own service. I invite you therefore to consider the expediency of appointing a commission of military officers for the consideration of this subject. The provision of the constitution which defines the power of the commander-in-chief over the military forces of the state, is inconsistent with the constitution of the United States, and

should be amended so as to conform to the provisions of that instrument upon this subject.

The legislature of 1858 gave its approval, according to the requisitions of the constitution, to an amendment of that instrument, declaring that "no person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be otherwise qualified, according to the constitution and laws of this Commonwealth: *provided*, that this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof; and, *provided*, *further*, that it shall not affect the rights of any child of a citizen of the United States born during the temporary absence of the parent therefrom." I respectfully but earnestly recommend a concurrence in this amendment, in order that it may be submitted to the people for their approval or rejection.

The experience of the past year has tested in some measure, the statute of 1858, relating to the crime of murder. The act of 1858 established degrees in this high crime, which had been previously regarded as capital in all cases. Some embarrassment has arisen in the construction of this statute, and it is thought by the officers charged with the duty of prosecuting criminal offences, that it would be partially obviated if certain cases of murder—such as the murder of an officer in discharge of his duty, or murder committed in a prison or court house, should, by express enumeration, be included in the class of murders in the first degree. I commend this subject to your careful consideration.

The statute which authorizes the executive to make requisition upon other states for the surrender of fugitives from justice, demands consideration and revision, in order that it shall be in strict conformity with the provisions of the constitution and laws of the United States. The power to make requisition upon other states for the surrender of alleged offenders, and which authorizes the surrender of our own citizens as criminals, upon *ex parte* statements exclusively, is one which admits of gravest abuse, and should be most carefully guarded.

The attention of the executive has been called to the situation of one or more bridges, hitherto maintained by corporations whose franchises have reverted to the Commonwealth, and it is thought that in some cases, additional legislation may be required.

During the past year, payment has been secured of one class of securities held as the proceeds of the sales of public

lands in Maine, to the amount of about \$40,000. There is still due upon another class of the same securities,—the greater part or the whole of which will ultimately be reduced to cash,—about \$124,557. It will be expedient to apply to this class the same principles of legislation, which by resolution of 1856 were applied to those recently settled; and as a measure of wise economy, I recommend the continuance of the land agent in office another year, by whom these complicate accounts have been successfully adjusted.

The treasurer of the Commonwealth was authorized by a statute approved April 5, 1854, to issue its scrip or certificates of debt, to the amount of two million dollars, for the purpose of aiding the Troy and Greenfield Railroad Company to construct a tunnel and railroad under and through the Hoosac mountain. During the past year application was made for the payment of the first instalment under this act, and as it appeared to the governor and council upon careful examination that the conditions specified in the act had been performed, scrip or certificates of debt in the name of the Commonwealth to the amount of one hundred thousand dollars were delivered to the treasurer of the company. I transmit to the legislature a report of a committee of the council upon this subject, and ask attention thereto.

No expenditure whatever has been made from the fund of ten thousand dollars, appropriated by the legislature of 1858, entitled the "Emergency Fund."

The statute enacted by the legislature of 1858, requiring the banks to keep fifteen per centum of their liabilities in specie, has operated favorably. The object and effect of the statute is to establish that percentage of their liabilities, as the least amount of specie at the immediate command of any bank. The aggregate in all the banks therefore, always exceeds that amount, as all cannot keep their specie constantly at minimum point. It appears from the statements of the banks in Boston, during the past year, that while a part held only the amount of specie required by law, the aggregate of specie in all the banks has been equal to more than thirty per centum of their liabilities.

The bank returns show that while specie in banks has been increased to \$11,112,715, against \$3,611,097 last year, the loans have been increased in the same period of time from \$92,458,572 to the sum of \$101,662,947:—indicating that the ability and confidence derived from a larger amount of specie, has enabled the banks to increase the amount of loans, from which their profits are derived. The experience of the past year would also seem to indicate that as the

financial position of the country is strengthened by the increase of specie, the rates of interest are reduced, approaching an equality with the lower rates of European countries.

The currency is the basis of the system of credit which our people have thought to be so closely connected with their prosperity. No legislation should be omitted, therefore, that will add to its stability and security, rendering it equal in value at all times to the coin which it purports to represent. There is danger that the present low rates of interest and abundance of money, may encourage a desire to enlarge facilities for speculation and to increase bank capital, thereby turning capital from permanent and productive investments, which give employment to industry and increase the products of the country. The object of banks should be to facilitate by temporary loans the distribution of the products of industry ; but such products result generally from more permanent investments of capital, such as improvements in land and the construction of machinery, manufactories, ships and railways.

An excessive paper currency counteracts the advantages to be derived from incidental protection to American industry, by stimulating, in the same degree, excessive importations of foreign manufactures. We cannot reasonably claim additional support for our industry by protective legislation, while we unnecessarily stimulate importations by injudicious expansion of credit ; and to make the present rapid increase of specie a pretext for such undue expansion, will result not only in the partial exclusion of gold and silver, but also in the acceleration of financial revulsions, and prepare the way for the overthrow of all state institutions of credit, by the concentrated power of the federal government. The large amount of specie accumulating in the country, amounting now to \$258,000,000, affords an opportunity for such measures as may be necessary for the perfect security of our system of credit. I transmit a communication of the secretary of the treasury of the United States ; another from the superintendent of the United States mint, upon the subject of the currency ; and also the report of the bank commissioners, to which I respectfully solicit careful attention.

It is sufficiently to the credit of the common schools to say, that they maintain their high character. There has been a marked improvement in the condition of the normal schools, and in their capacity for public service. A similar remark, though less within my own knowledge, may be made of other departments of education. The expenditure of the past year, for educational purposes, was, \$1,474,488.

The number of children between five and fifteen years of age, is 223,304, of whom 218,198 have been in attendance upon the schools during the year, showing an increase in attendance of 15,167 pupils on last year. The school fund from which our system of schools is supported is about one million five hundred thousand dollars. The board of education, and the secretary of the board, in their reports, earnestly recommend the increase of this fund to the sum of three million dollars, as a measure indispensable to the full success of the common school system. I commend these papers to your consideration, with a most hearty concurrence in this opinion. The public school fund was established when we had less than half our present population, and much less than half our present wealth. The system is no longer an experiment. The advantages we have already derived are far greater than were then anticipated; but it is still far from a perfect school that we have established. I should reluctantly assent to the increase of the school fund were it to be exhausted in expensive buildings; but other and better results will follow. Less and better mental training will be applied; physical development be made to accompany intellectual attainment, and through the instrumentality of agents, the people may be induced to visit their children and to support the teachers, in school. The success of the normal school will lead to other practical and professional schools. The visitors of some of the normal schools report, that the average age of students upon entering is twenty-one years. But we should remember, that while the normal schools instruct a few hundred, and the colleges, for which I bespeak your favorable consideration, educate a thousand more, there are a half million persons in the Commonwealth, under twenty-one years of age, who must seek their scholastic training in the public schools alone.

During the month of June, 1858, the supreme court pronounced a decision upon the statute authorizing the assessment of poll taxes, which has changed entirely the universal and invariable practice of assessors since the earlier state taxes were levied. The immediate effect of the decision was to invalidate, so far as they had been made, the assessments of that year, and to require that one-sixth part of the State tax should be assessed on polls. This principle of assessment was well understood when the earlier State tax was levied, and was recognized in legislative reports as late as 1838, as the correct rule of assessment. No State tax having been assessed from 1832 to the year 1854, with a single exception of the year 1845,—a period of twenty-two

years,—the opposite practice of excluding the State tax in assessing poll taxes had become universal. The right of suffrage depends upon the payment of a tax within two years, and as a general rule, the payment of the poll tax is made an indispensable qualification for the exercise of that right. By our statute, it is also assessed upon minors. Contrary to the general impression, it appears that the increase has borne heaviest upon the least wealthy and populous towns. In the town of Raynham, Bristol County, with a population of 1,634, and an estate valuation of \$893,400, the poll tax for last year was \$2.66. In Clarksburg, Berkshire County, with a population of 424, and a valuation in 1858 of \$130,758, the poll tax was \$2.72; while in Cambridge, Middlesex County, with a population of 20,473, and a valuation of \$20,261,850, it was only \$1.70. Had the decision been pronounced in 1857 instead of 1858, the portion of the State tax assessed on polls, instead of \$60,000, would have been \$144,333, and the poll tax in Raynham and Clarksburg would have been not less than \$2.90. Without raising the question whether taxes should be assessed exclusively on property, a principle which is inserted as a declaration of right in one of the State constitutions, I think it may justly be assumed that a poll tax of \$2.72, or as it would have been in 1857, \$2.90, upon the payment of which depends the right to vote in town, state or presidential elections, in such towns as Raynham and Clarksburg, will operate,—in many cases affecting worthy and industrious men,—as a denial of the elective franchise. There are few States that assess taxes on polls, none that assess a tax of \$1.50, and not one that imposes it upon minors. I recommend the legislature therefore to provide by law, that this tax shall not be assessed on minors, and that no portion of the State tax shall be assessed upon polls.

I am relieved of any fear that this course will work injustice to the holders of property, because I suggest it with the conviction that the State tax can soon be abolished, or reduced to a nominal sum. We may be thus enabled to relieve an industrious poor man of that which is in effect an exorbitant tax on suffrage, and leave it to succeeding legislatures, whenever a State tax shall be laid, to determine whether any, or what part, shall be assessed on polls. I desire also, to renew, in this connection, my recommendation to the legislature of last year, that a military tax, not to exceed one-quarter dollar, in lieu of military service, should be assessed upon enrolled citizens not numbered in the active militia. It may also be expedient to inquire whether

legislation is necessary for the protection of public officers with reference to any assessment or payment of poll taxes made previous to the recent decision.

Since the adjournment of the legislature of last year the supreme court has entered a decision which confirms the title of the Commonwealth to lands in the Back Bay, embracing an area of about one hundred acres. The same decision has established the prerogative title of the State to all channels and flats within its jurisdiction, below the line of private ownership—a property of greater ultimate value than the Back Bay lands, but not presently available.

Contracts for filling about one-half the Back Bay lands have been made; a part of the work is completed, and other parts rapidly advancing. Sales of land and contracts for sales, to the extent of 387,000 superficial feet have been made, for which \$492,000 is paid and to be paid. For details of the transactions, I refer you to the commissioners' report which I transmit.

One of the evils of this country of illimitable expansion is the passion to obtain exorbitant prices for land; a policy which has paralyzed towns and cities, by adding to the slender strips of land reserved for dwellings, narrow streets and compact squares of buildings, reducing God's great gifts of light and air, in the same proportion. The State, under the direction of the commissioners, has chosen a wiser policy. Avenues have been laid out on a scale of magnificence unequalled by any at present existing, and it is their purpose to press as rapidly as possible the completion of this great public improvement, neither sacrificing the property of the State by injudicious sales, nor delaying or embarrassing the enterprise by demanding exorbitant prices for land.

The question of immediate interest is, what disposition shall be made of the proceeds of sales of land, which will bring to the treasury, within five years, at a moderate estimate, from three to five million dollars. An overflowing treasury is prolific of unwise legislation. If the State were burdened with public debts, I should unhesitatingly recommend their application, as a primal duty, to that object; but it has none for which provision is not made, and I regard their application to the temporary debt, or to meet a deficit occasioned by excess of current expenditures over income, as unjustifiable and unnecessary. I trust the legislature will be able to make provision for the application of this property to such public educational improvements as will keep the name of the Commonwealth forever green in the memory of her children:—and to this end I earnestly

recommend, for reasons already stated, that the first public charge to be made upon this property shall be for the enlargement of the public school fund until it net the sum of THREE MILLION DOLLARS.

Great interest has been given to this estate by the full historical exposition contained in the opinion of the supreme court, setting forth the title, and its connection with other lands of towns bordering upon the Bay. Much of its immediate and prospective value, is to be attributed to public improvements of the city of Boston, and munificent private expenditures made by its citizens. Such are the reservation and improvement of the common, the establishment of the public garden, and tasteful private structures that adorn and make attractive its neighborhood. In just recognition of advantages thus gained, and as a means of protecting the public garden as it now stands, I recommend that the state assume the duty of filling that part of the street and lands adjacent the garden, which devolves upon the city by the terms of the tripartite indenture of December 11, 1856, upon condition that no private structures shall hereafter be placed thereon.

The secretary of the board of agriculture, upon his own volition, and without public expense, has commenced and nearly completed, within the year past, a collection of specimens illustrative of the natural history of the state. The idea, creditable alike in conception and execution, is suggestive of scientific enterprises of greater moment, than a chance collection crowded into the vacant rooms of the capitol. Ought not Massachusetts, in the flush of wealth and power, to provide for the most complete illustration of her own natural history, or at least blend her efforts with the co-operative power of individuals, associations and institutions, partially or altogether devoted to natural science, for the initiation of a work, the commencement of which would shed additional lustre on her name; and the continuation of which, from age to age, until in her museum of nature, should be found correct representations of every form of inorganic and organic life, would enable her instructed people to trace the separate stages of existence through all mutations, from nothing to Deity? Neither means, occasion, nor agents are wanting for its complete success. The natural history of the Commonwealth, except in a few departments where individual energy and genius have accomplished great results, is almost entirely undeveloped and unrepresented. Other states, and the continent offer to our researches regions yet mostly unexplored. Even where

inquiry has begun, nothing is exhausted. We have also private and public associations devoted to science, collections of specimens that would honor European cabinets, not publicly exhibited; young men of energy to follow the career of Humboldt and Audubon, in pursuing wisely directed inquiry; and among individual devotees of science, we have the first naturalist of the age, to direct their labors; one who has withstood imperial solicitation and declined the chair of science which the death of Cuvier leaves yet vacant, choosing rather citizenship and scientific labor among the American people. The world would wish such an enterprise success.

I approach the consideration of the financial condition of the State with some hesitation. In many respects it appears favorably, in others it will challenge serious and responsible deliberation. I am gratified however, to be able to say that the public debt presents no embarrassments. Every considerable difficulty arises from the temporary indebtedness of the State, and the excess of current expenditures over current receipts.

The liabilities of the Commonwealth on account of loans to railway corporations, amounted on the first of January, 1859, to \$4,999,000, which is secured by corporation bonds, and first mortgages of the roads and property of the several corporations, to which the credit of the state has been loaned. These corporations are now in prosperous condition, earning more than their expenses, and with two exceptions paying liberal dividends. There can be no doubt that the security of the Commonwealth is abundantly sufficient to cover all its liabilities. This statement includes the loan recently made of \$100,000 in aid of the construction of the Hoosac tunnel, which is secured in like manner.

The public debt, the purposes for which it has been incurred, and means of payment, classified according to the provisions for its liquidation, may be stated as follows:

State Reform School scrip, due July 1, 1860, .	\$75,000 00	
State Prison scrip, due Dec. 1, 1860, . . .	100,000 00	
		\$175,000 00
Lunatic Hospital scrip, due April 1, 1865, .	\$70,000 00	
“ “ “ “ Nov. 1, 1865, . . .	100,000 00	
		170,000 00
State House scrip, due Oct. 1873 and 1874, .		165,000 00
Northampton Lunatic Hospital scrip, due April 1, 1868, ...	\$150,000 00	
Northampton Lunatic Hospital scrip, due July 1, 1877, ...	50,000 00	
		200,000 00

Lunatic Hospital and State Prison scrip, due	
July 1, 1874, ...	\$94,000 00
Amounting to, ...	<u>\$804,000 00</u>

The payment of this debt, by statutes of 1857, chapter 197, is secured—

1st. By appropriation of the Western Railroad Sinking Fund, amounting January 1, 1859, to	\$84,756 00
2d. By appropriation of Western Railroad stock, January, 1859, ...	705,000 00
	<u>\$789,756 00</u>
Leaving a balance of	\$14,244 00
to be paid out of future income of these funds.	

The claim of the State for military services, is also appropriated to payment of this class of public debt, but as it is not presently available, and the debt is otherwise secured, it is not included in this schedule.

The second class of public debts, the purposes for which they were incurred, and the provision made for payment, may be stated as follows:

State Almshouse scrip, due 1872, 1873, 1874, ...	\$210,000 00
Payment of the debt is provided by a reservation of \$6,000 annually from the income of alien passengers for this purpose. This fund amounted, January 1, 1859, to	37,539 00
and will be sufficient to pay the full amount when due.	

The third class consists of scrip issued in 1856, and applied to payment of unfunded debt, and is due 1864, '66, '68, ...	\$300,000 00
For the payment of which is appropriated by statute of 1857, chapter 235, from the first proceeds or disposal of lands in Back Bay, ...	300,000 00

Of this sum \$92,000 is already secured to the treasury, and the balance will probably be received during the year.

The public debt thus stated, is \$1,314,000, for the payment of which, as it becomes due, the most ample provision and security has been made.

The temporary debt, or the excess of expenses over current receipts, will require attention. Until 1853, for more than twenty years, with one single exception the receipts of the government were equal to its payments. In 1853 a state tax was paid, which from the sum \$300,000 in 1854, had grown to the sum of \$899,973 in 1857. The last legislature, by systematic reorganization of every department, with one exception, reduced the state tax to \$359,988, making a reduction of \$539,985, and reducing the amount of county taxes below the amount asked by commissioners \$60,000; a

total reduction in these two departments of nearly \$600,000 in one year.

The total amount of appropriations for the service of last year were \$954,938, of which \$942,365 appears to have been expended. The legislature, by statute of 1858, chapter 158, has deprived the executive department of the power to make an exact statement of the wants of the government, for the present year. Upon such information as can be obtained, it is believed that the expenditures upon the basis of last year will amount to \$904,600, and the receipts, upon the same basis, to \$703,000—leaving a deficit of \$201,000, to be supplied by direct taxation. I am led to believe, however, that increased receipts will reduce the deficit stated some \$25,000 ; and I am also persuaded that liberal reductions in expenditures will still be made, so that the deficit will not exceed \$125,000 or \$150,000, for this year.

There is one department of expenditures that requires the careful and courageous attention of the legislature, which will—with systematic reorganization like that applied to the legislative and executive departments—remove the deficit altogether. I mean the department of county expenditures.

The county expenditures, except Suffolk, apart from state and town expenses, for the past ten years, amount to the sum of FIVE MILLION SEVEN HUNDRED AND FIFTY-SEVEN THOUSAND DOLLARS. If to this sum be added the gross expenditures of the county of Suffolk, the county expenditures in ten years amount to SEVEN MILLION ONE HUNDRED AND NINETY-FOUR THOUSAND DOLLARS. Startling as the aggregate, the ratio of increase is more surprising. The total county expenditure and liability in 1848-9, was \$620,284. The county expenditure and liability for 1858, was \$1,882,119, and including the criminal costs paid in 1858, on account of previous years, it was \$2,087,972. Showing an increase in the year 1858, over 1848, of *one million two hundred and sixty-three thousand dollars*.

This aggregate is composed of the following items: County taxes assessed; county debts incurred, and two-thirds of county criminal costs, paid by the State upon return of county treasurers; amounting, as I have said, in ten years, to the sum of \$7,193,840. These expenditures and liabilities for the years 1848, and 1858, stated separately, stand as follows:

1848-9.	1858-9.
County Taxes, . . . \$237,775 00	County Taxes, . . . \$166,700 00
County Debt, . . . 223,314 14	County Debt, . . . 1,059,220 00
Two-thirds Criminal	Two-thirds Criminal
Costs, . . . 63,358 60	Costs, . . . *148,839 68
Gross Expenses of	Gross Expenses of
Suffolk County, . . . 95,836 94	Suffolk County, . . . 207,359 41
Total for 1848-9, . . \$620,284 68	Total for 1858-9, \$1,882, 119 09

I transmit to the legislature extended tables, showing the course of these expenditures for ten years, in detail. The information has been obtained with considerable difficulty, and the tables have been prepared by the secretary of state, to whom, as to his assistants, I am greatly indebted for indefatigable support in this investigation. They do not profess accuracy, because there is no means of obtaining exact information. They represent also the income of the counties as from the labor of prisons, which is not greatly important, because it is the amount of money expended to which my attention has been turned.

The first observation I make upon this subject, is that in this county expenditure of nearly one million dollars annually, except in Suffolk County, there is no systematic supervision of accounts, no direct responsibility of those who expend to those who pay, and no financial department established where the operations can be traced from year to year. To state these facts is to enforce the necessity of immediate and adequate remedy.

In the reorganization of this department of expenditure, I entertain no doubt whatever that a retrenchment can be effected, to which the deficit existing this year will make no comparison.

And first, as to county taxes. For twenty years there has been constant complaint of their amount and enormous yearly increase. The legislative reports often refer to it, but suggest no adequate remedy. The county taxes in ten years, not including Suffolk, amount to \$3,706,559. They have risen from \$237,775 in 1848, to \$526,535 in 1857. There is but one remedy for this gigantic increase of taxation, and that is to fix the responsibility upon the taxing

* This represents two-thirds of the amount actually incurred for that year, and deducting \$205,853 from the amount actually paid as belonging to previous years' costs.

power. If the county tax exceeds a half million or a million dollars, the legislature is responsible. To tax the people, high legislative authority is indispensable.

I trust the legislature will accept this responsibility, and applying to county expenses the same rule it applies to its own business—specific appropriations for specific purposes—will remove an evil under which every body groans, but for which no body admits responsibility. Let all the members of each county of whatever party relations, constitute a committee on county expenditures, and reporting such specific taxes as are required for specific purposes, let the legislature grant or refuse them, as public justice and public interest shall require.

The county debts also require attention. The debt incurred in ten years, excluding Suffolk, is \$836,558. In 1848 it was \$223,314. In 1858 it was \$1,059,873. The county of Norfolk is the only county which has greatly diminished its debt. Whether legislation is required upon this subject, I submit to your judgment.

The criminal costs of the Commonwealth require careful attention. I transmit a table from the office of the treasurer, showing the aggregate costs and the amount paid by the State. In ten years it amounts to \$1,821,718. In 1848 there was paid \$95,037; in 1858 there was paid \$429,112. When the State assumed two-thirds of the criminal costs, the district-attorneys were officers of the State, and they were therefore appointed to examine some portions of these costs. They are now elected by districts and the State is without any supervision whatever.

There is very great abuse in regard to criminal costs, and sometimes in the execution of criminal law by justices. I give an illustration furnished me by county officers. In a town in an adjoining county, the criminal expenses for the October term, 1857, returned by justices, was \$243. In the same town, for the same term 1858, the costs returned by the trial justice were \$32.62. In another town in the same county, the costs for the October term 1857, were \$185.79, while those of the trial justice for the same term 1858, were \$615.82. Some of the cities require their officers to pay into the city treasury all fees received by them in criminal cases. The result is, that the profit of the city increases the burden of counties and the State. Such facts explain what appears a frightful increase in the number of criminals. It has latterly been discovered that a sufficient increase of arrests will pay to somebody criminal costs in ten years to the amount of nearly two million dollars. Thus the crimi-

nal costs paid by counties and the State, amounting to the sum of \$275,000 in 1855, and \$224,000 in 1858, exceeded in the last five years the costs paid the preceding five years, more than seven hundred thousand dollars. From these, and other causes that I cannot enumerate, you will not be surprised to learn that the cost of supporting criminals is greatly increased, and their numbers fearfully out of proportion with what we suppose to be the innocent condition of our people. I transmit a statement of the facts for a period of ten years, which will speak for itself.

This gigantic and frightfully increasing evil demands instant and adequate remedy. The remedy is simple, and easily applied. It is to remove the irresponsibility that now exists in every department of county administration,—financial and criminal,—and establish a system of minute, direct and absolute responsibility on the part of those who exercise power, to those for whom it is exercised. Either concentrate the power in the State, or transfer it from the State to the counties.

It is impossible that this divided function—one party expending and the other paying—can ever be consistent with economy or wise administration.

It is not well to concentrate this power in the State. I therefore advise that it be transferred to the counties. Let the criminal costs, for instance, be divided. Let the costs that arise in towns and cities be charged to towns and cities, and the costs that grow out of county tribunals be charged to counties. Then if the criminal power be abused in any town or city the costs will be charged to the town or city where the abuse exists, and the people will look closely after those who administer criminal law, and hold them responsible for all unnecessary evils. It has so resulted in other States where it has been tried. To expend from five to seven million dollars in ten years without responsibility for its disbursement or care in providing it, is certainly an agreeable duty, and it is possible that a change may meet with opposition. But I entreat the legislature not to allow this important subject to pass upon the ground that it is a mere transfer of taxes. It is no transfer. It is the annihilation of the excess and extravagance of county expenditures, and if administered for three years would not only remove the State tax, and equalize expenditures and receipts, but would create a surplus sufficient to pay the annual expenditures of every New England State, except Massachusetts.

Two remedies are suggested for these difficulties: one is, that to county officers as now appointed should be added a

county auditor for the examination and approval of all county expenditures ; the other to establish a board of supervisors, consisting of one member from each town in a county, which, in addition to the duty of auditing accounts, should have limited discretionary power in directing county affairs, such for instance as relate to the division of towns, which would relieve the legislature of very difficult and laborious duties.

I feel it to be my duty, in conflict with a previously formed purpose, to call attention of the legislature to the subject of the term fixed by the constitution as the official tenure of justices of the peace ;—and I do this, disclaiming any desire to restrict the present tenure of judicial officers, with which, I cannot doubt, the Commonwealth is entirely satisfied. It is impossible, from established custom, to restrict appointments of justices to any reasonable number, on account of certain ministerial duties connected therewith, which make the office necessary in ordinary business transactions. A separation of ministerial and criminal powers by legislative act must in the nature of things be temporary, and does not remedy the difficulty. It has been held by successive legislatures, and properly, I think, that a judicial officer should not be removed for official misconduct, except by impeachment ; and it has also been decided, and has come to be the rule, that the cumbrous and expensive process of impeachment shall not be applied to justices of the peace : thus a single justice, out of the thousand or more that by a kind of necessity are annually appointed—except in the brief intervals when such laws as the present trial justice act are in force—has greater power to disturb the peace of communities, taking his prerogative and opportunities together, than the supreme judicial court, and is for the term of seven years absolutely irresponsible except to public opinion. I reluctantly advise upon this subject, but reflection compels me to suggest that the ministerial and criminal powers be separated and their official tenure be limited to two years.

There are other subjects of more general character to which the principle of retrenchment may be applied, not only with economy but for the advantage of the public service. In ten years past, more than 12,000 commissions have been issued to justices of the peace and other officers. The number increases from year to year, and it is difficult to limit the issue. I recommend that a tax of three or five dollars be assessed upon the issue of every commission from the office of the secretary of State. It is believed that the use of parchment in enrolling bills, has been abandoned in

England, and that it may be discontinued here without injury. We manufacture paper sufficiently enduring for this purpose, and our printed laws furnish also a security against alteration not attainable by the use of parchments.

Many thousand dollars are paid in salaries to public officers for indexing deeds in the public registry. Indexing deeds is a part of registration, for the benefit, exclusively, of dealers in real estate, and should be charged to the cost of registration.

Enlarged power of courts to admit amendments of form, I am informed, will secure important reduction in criminal costs. I have official authority for suggesting that a change as to time of payment of costs in insolvency courts would remove an existing difficulty in the statute of last year. The relation of the city of Boston to the Commonwealth, in regard to the costs and salaries of the superior court, may require consideration. It may be expedient to inquire also, whether the principle of fixed salaries can not be extended so as to cover the services of the legislature and of the executive council, for the entire year, and to other officers in public service.

During the past year I made official communication to the then living representative of the late governor Hancock, with a view to provide for a future purchase by the legislature, of the Hancock House, and its transfer upon the decease of the proprietor, to the Commonwealth. His great age, and increasing infirmities, made it impracticable to enter upon any negotiation for this purpose. His death has been recently announced to the public; and I suggest that the legislature consider what measures may be now expedient, as it regards a possible transfer, at some future time, of this estate to the Commonwealth. I know no subject that could better occupy the attention of the legislature on the birth-day of Washington.

The dignity and the duties of the chief executive magistrate alike require that he should reside at the capital. Men who have official intercourse with him have a right to demand it, and if executive service call him to any part of the State, the capital is the only central point of divergence. My own experience leads me to the conclusion that for the efficient discharge of any class of duties his residence here will soon be indispensable.

This estate is the last that retains the revolutionary tone and character. It was originally a part of that upon which the capitol buildings now stand. It is hallowed by associations connected with the memory, and the frequent presence

of Washington, Franklin, Lafayette, and other patriots. Its illustrious occupant, the president of the Congress of Independence—whose bold signature to the Declaration interprets better than eulogy or history, the spirit and character of those who pledged their lives, their fortunes, and their sacred honor in defence of its principles,—that illustrious patriot, himself the first governor of the Commonwealth under the present Constitution, cherished through life the expectation that it would ultimately become the executive mansion of the Commonwealth; and if there be any conscious connection of separated existences, his spirit will mourn, as the people will mourn when it shall disappear from the sight of men.

Returns have been obtained from every town in the State, exhibiting the relative valuation of estates for 1857 and 1858, the taxes assessed in each town in the same year, the poll tax paid in each, and the debts of each town and city. The debts amount to \$13,347,000. These tables exhibit a reduction in the valuation of 1858, compared with that of 1857, of thirteen million seven hundred thousand dollars; but an increase, as compared with the valuation of 1850, of two hundred and sixteen million dollars. The reduction of town taxes in 1858, as compared with 1857, amounts to seven hundred and thirty-nine thousand dollars; and this sum added to the reduction of taxes, effected by the legislature of 1858, makes a reduction in one year, in State, county and town taxes, of one million three hundred and thirty-nine thousand dollars.

Were the sessions of the legislature a matter of convenience to its members merely, it would be improper to refer to the subject. But it is not so. Sessions of great length add largely to immaterial and vexatious legislation, and increase greatly public expenditures. They affect also the character of legislators. When the legislature is in session half the year, citizens actively engaged in business of any character, must avoid its service; but reduced to terms of fifty or sixty days, the first men of every profession could sit without inconvenience. This infusion of active and able men, would re-establish the ancient reputation of the State for its statute literature,—the highest class of literature, for though it move the fancy or excite passion less, it is that which protects the possessions, liberties and lives of men. Every age produces great men for great emergencies, but it is a happy land and a fortunate people that find able men to discharge the humbler duties pertaining to government.

To have reduced the sessions of the legislature from one hundred and fifty days, to sixty :

To have removed a State tax of nearly \$900,000 in two years :

To have contributed indirectly but forcibly, by precept and example, to the reduction of town taxes to the amount of \$739,000 ; and to have enlarged salaries, and rendered more efficient every department of the government at the same time, will be an honor not often won by legislators. But honorable as the service will be if accomplished, and however much it may be appreciated, it is nothing in comparison with the fact that by systematic reorganization of every department you will have made it impossible ever to repeat the excessive appropriations, expenditures and taxation, from which the State will have escaped.

Senators and Representatives :

I close the political year in which I have been connected with the executive department, with a higher veneration for the Commonwealth, than I had known before. And though not without appreciating my obligations to my fellow-citizens for many favors, that which brought me into position for the first time fully to comprehend the true character of the State, stands first in my estimation.

No man knows Massachusetts who has not followed out one by one the delicate threads that connect her wealth and power with the humblest of her oppressed and unfortunate children. I have learned, also, upon higher than individual or partisan authority, to respect all her past administrations, and to know that it is the duty of every good citizen, into whatever hands her interests may fall, to wish well to the administration of her affairs.

[A.] STATEMENT

OF TAXES AND VALUATION OF THE SEVERAL CITIES
AND TOWNS IN MASSACHUSETTS FOR 1857 AND 1858,
WITH THE POLL TAX AND DEBT FOR 1858 AND THE
POPULATION IN 1855.

[A.] AN ABSTRACT,

Exhibiting the Assessments and Valuation of the several Cities and Towns in the Commonwealth, for the years 1857, '58; also, the Poll Tax, and the Existing Debt for 1858, together with the Population, according to the Census of 1855: compiled from official returns made to the Secretary's Office, 1858.

CITIES AND TOWNS.	ASSESSMENTS.		POLL TAX.	EXISTING DEBT.	VALUATION.		Population, Census of 1855.
	1857.	1858.			1857.	1858.	
BARNSTABLE COUNTY.							
Barnstable, ...	\$18,832 50	\$18,475 02	\$1 65	\$350 00	\$2,054,700 00	\$2,041,416 67	4,998
Brewster, ...	8,708 70	6,948 74	1 90	4,500 00	782,545 00	693,440 00	1,525
Chatham, ...	8,764 00	10,201 00	2 06	8,000 00	870,400 00	873,433 00	2,560
Dennis, ...	16,313 82	10,213 00	1 63	No debt.	1,459,392 00	1,274,576 00	3,497
Eastham, ...	3,614 65	2,884 83	1 60	634 00	206,720 00	216,661 00	808
Falmouth, ...	8,779 84	7,420 07	1 86	300 00	1,390,483 00	1,315,600 00	2,613
Harwich, ...	7,587 58	8,456 95	1 60	*	815,735 00	840,455 00	3,261
Orleans, ...	8,550 36	9,207 14	1 60	—	575,266 00	502,982 00	1,754
Provincetown, ...	13,171 07	12,791 71	1 66	26,138 25	1,349,785 00	1,221,385 25	3,096
Sandwich, ...	13,693 55	11,355 07	1 67	1,205 43	1,761,650 00	1,549,800 00	4,496
Truro, ...	6,782 60	6,394 96	1 60	11,748 96	506,176 00	447,698 00	1,917
Wellfleet, ...	6,400 00	7,300 00	1 57	5,700 00	*	*	2,325
Yarmouth, ...	11,142 40	12,747 88	1 64	24,652 70	2,211,466 00	1,708,600 00	2,592
Totals, ...	\$132,341 07	\$124,399 37	\$1 70	\$83,229 34	\$13,984,318 00	\$12,686,046 92	35,442
BERKSHIRE COUNTY.							
Adams, ...	\$20,890 18	\$19,112 15	\$1 64	\$15,635 52	\$2,509,757 00	\$2,447,820 00	6,980
Alford, ...	2,111 56	1,348 77	1 45	No debt.	369,583 66	327,136 16	526
Becket, ...	4,945 21	4,442 13	1 59	No debt.	412,906 00	427,827 00	1,472
Cheshire, ...	3,800 00	3,800 00	1 65	1,788 55	658,676 00	654,745 00	1,532

Clarksburg, ...	1,566 56	1,623 18	2 72	842 12	129,439 00	130,758 00	424
Dalton, ...	3,290 55	3,858 55	1 69	450 00	761,814 00	775,574 00	1,061
Egremont, ...	2,455 02	2,173 49	1 62	No debt.	496,159 00	560,086 00	992
Florida, ...	2,597 72	2,447 54	2 37	517 00	120,491 00	116,831 00	612
Great Barrington, ...	9,895 67	8,988 26	1 90	No debt.	1,590,556 66	1,589,840 66	3,449
Hancock, ...	2,667 15	2,472 72	2 17	394 00	521,225 00	519,629 00	818
Hinsdale, ...	4,245 75	3,767 44	1 50	No debt.	595,621 00	545,117 00	1,361
Lanesborough, ...	2,681 59	3,143 76	1 72	688 36	613,814 00	632,178 00	1,235
Lee, ...	13,749 81	12,534 25	1 98	16,690 23	1,666,848 00	1,681,841 00	4,226
Lenox, ...	5,859 26	3,706 56	1 60	3,187 94	807,080 00	748,906 00	1,921
Monterey, ...	2,222 80	1,854 80	1 73	411 09	315,706 50	336,246 83	823
Mount Washington, ...	650 00	600 00	1 79	741 29	100,998 00	94,854 00	344
New Ashford, ...	891 42	675 20	1 25	No debt.	103,447 33	90,805 50	195
New Marlborough, ...	5,189 69	4,600 48	1 80	No debt.	556,736 00	584,208 00	1,647
Otis, ...	3,974 24	3,819 47	2 37	*	274,482 50	245,698 34	1,018
Penn, ...	*	*	*	350 00	*	*	487
Pittsfield, ...	24,459 00	21,987 68	1 82	22,239 00	4,901,732 00	5,058,750 00	6,501
Richmond, ...	2,646 30	2,292 52	1 35	No debt.	457,434 00	470,179 00	970
Sandisfield, ...	5,175 15	4,974 76	2 06	No debt.	186,313 33	177,825 00	1,615
Savoy, ...	3,126 09	2,452 86	1 55	134 92	249,596 00	237,524 33	919
Sheffield, ...	11,123 85	8,370 85	1 65	9,000 00	814,550 00	712,790 00	2,624
Stockbridge, ...	5,766 54	4,741 90	1 77	1,367 00	952,090 00	943,083 00	2,058
Tyringham, ...	2,444 13	2,388 96	1 94	500 00	282,018 00	297,660 00	710
Washington, ...	3,772 15	3,408 52	2 11	200 00	318,216 00	311,700 00	1,068
West Stockbridge, ...	4,568 69	3,724 18	1 47	700 00	623,481 00	586,701 00	1,736
Williamstown, ...	6,077 39	5,488 20	1 50	2,750 00	1,172,118 66	1,159,633 33	2,529
Windsor, ...	3,164 29	4,126 33	2 26	2,000 00	345,702 33	342,362 50	905
Totals, ...	\$166,007 76	\$148,925 51	\$1 80	\$80,587 02	\$22,908,621 87	\$22,808,309 65	52,791

* No return.

ABSTRACT—Continued.

CITIES AND TOWNS.	ASSESSMENTS.		Poll Tax.	EXISTING DEBT.	VALUATION.		Population, Census of 1855.
	1857.	1858.			1857.	1858.	
BRISTOL COUNTY.							
Attleborough, ...	\$19,434 00	\$14,555 00	\$1 60	*	\$2,280,994 00	\$2,350,230 00	5,451
Berkley, ...	4,361 17	2,450 00	1 94	\$1,500 00	355,745 00	341,258 00	924
Dartmouth, ...	18,543 71	15,296 87	1 90	No debt.	2,976,182 00	3,004,562 00	3,658
Dighton, ...	6,994 98	6,129 94	1 65	2,840 50	744,950 00	698,850 00	1,729
Easton, ...	9,021 75	7,835 23	1 80	No debt.	1,015,866 00	1,037,116 00	2,748
Fairhaven, ...	28,388 87	29,037 87	1 50	17,829 90	4,522,500 00	4,482,100 00	4,693
Fall River, ...	83,186 61	77,929 35	2 20	140,846 54	10,140,610 00	9,923,495 00	12,680
Freetown, ...	6,784 13	5,317 90	2 20	5,000 00	826,653 00	788,692 00	1,585
Mansfield, ...	6,522 13	5,117 29	1 42	6,985 00	724,415 00	718,789 00	2,119
New Bedford, ...	252,540 66	233,727 32	2 00	236,850 00	27,539,400 00	26,338,200 00	20,389
Norton, ...	7,061 10	6,870 10	1 67	1,532 70	850,800 00	834,850 00	1,894
Pawtucket, ...	13,026 33	8,873 34	1 71	5,000 00	1,953,552 00	1,838,292 00	4,132
Raynham, ...	7,646 39	6,678 89	2 66	No debt.	930,300 00	893,400 00	1,634
Rehoboth, ...	8,185 64	5,613 97	1 50	No debt.	820,807 00	805,254 00	2,107
Seekonk, ...	5,228 71	4,983 46	1 58	No debt.	1,300,511 00	1,341,368 00	2,304
Somerset, ...	4,644 87	4,543 81	1 60	1,260 00	913,500 00	893,300 00	1,339
Swansey, ...	5,300 50	4,323 42	1 52	3,070 00	716,300 00	770,690 00	1,467
Taunton, ...	71,772 66	69,062 04	1 64	12,500 00	7,429,650 00	6,827,300 00	13,750
Westport, ...	11,096 65	9,746 65	1 72	1,037 66	1,937,248 21	1,664,000 00	2,822
Totals, ...	\$569,740 86	\$518,092 45	\$1 77	\$136,252 30	\$68,001,233 21	\$65,530,496 00	87,425

DUKES COUNTY.

Chilmark, ...	\$2,473 98	\$2,099 56	\$2 01	No debt.	\$803,325 16	\$582,422 16	676
Edgartown, ...	8,808 30	7,604 33	1 64	\$6,660 66	1,344,800 00	1,357,850 00	1,898
Tisbury, ...	7,754 03	6,270 46	1 64	4,860 50	941,765 00	915,613 00	1,827
Totals, ...	\$19,036 31	\$15,974 35	\$1 76	\$11,521 16	\$2,889,890 16	\$2,855,885 16	4,401
ESSEX COUNTY.							
Amesbury, ...	\$11,325 90	\$9,211 20	\$1 60	\$2,543 77	\$1,209,705 00	\$1,216,181 00	3,585
Andover, ...	20,421 23	20,140 43	2 08	2,225 00	2,236,740 00	2,270,328 00	4,810
Beverly, ...	28,919 22	23,896 70	1 65	2,225 00	2,901,000 00	2,821,250 00	5,944
Boxford, ...	5,467 00	4,291 02	1 73	1,840 00	668,341 00	667,670 00	1,034
Bradford, ...	5,015 04	4,642 13	1 83	4,600 00	807,636 00	842,478 00	1,372
Danvers, ...	20,217 00	17,139 90	1 80	18,000 00	2,107,500 00	2,144,100 00	4,000
Essex, ...	6,628 61	5,813 48	1 65	2,500 00	849,705 00	882,570 00	1,668
Georgetown, ...	8,795 68	7,926 91	1 80	11,200 00	716,900 00	717,800 00	2,042
Gloucester, ...	44,152 38	37,722 44	1 80	48,500 00	3,727,214 00	3,780,785 00	8,935
Groveland, ...	5,015 75	4,431 79	1 80	10,500 00	485,624 00	498,900 00	1,367
Hamilton,*	—	—	—	—	—	—	896
Haverhill, ...	50,011 12	35,780 82	1 60	43,210 50	5,002,950 00	5,168,500 00	7,932
Ipswich, ...	13,489 02	12,010 00	1 66	17,365 00	1,258,416 00	1,263,669 00	3,421
Lawrence, ...	90,148 09	91,127 46	1 70	164,903 20	10,228,490 00	10,249,008 00	16,114
Lynn, ...	78,603 20	70,088 18	1 80	112,150 00	8,733,689 00	9,007,941 00	15,713
Lynnfield,*	—	—	—	—	—	—	883
Manchester, ...	6,690 44	7,151 15	2 09	7,189 99	767,433 00	746,447 00	1,864
Marblehead, ...	26,955 68	25,481 70	1 64	28,600 00	2,551,686 33	2,365,383 33	6,928
Methuen, ...	10,953 00	9,593 17	2 00	—	1,297,658 00	1,274,091 00	2,582
Middleton, ...	4,251 18	3,883 39	1 89	2,858 00	356,059 00	365,748 00	880
Nahant, ...	4,745 86	3,278 51	1 50	1,460 00	516,318 00	489,156 00	270

* No return.

ABSTRACT—Continued.

CITIES AND TOWNS.	ASSESSMENTS.		POLL TAX.	EXISTING DEBT.	VALUATION.		Population, Census of 1855.
	1857.	1858.			1857.	1858.	
ESSEX—Continued.							
Newbury, ...	\$7,002 25	\$6,175 36	\$2 57	\$2,300 00	\$865,235 00	\$814,045 00	1,484
Newburyport, ...	67,307 70	59,486 84	1 83	97,900 00	7,027,800 00	6,816,400 00	13,355
North Andover, ...	11,493 09	8,775 88	1 75	3,982 43	1,486,680 00	1,497,350 00	2,215
Rockport, ...	12,046 24	10,738 57	1 60	6,161 79	1,293,428 00	1,308,711 00	3,498
Rowley, ...	5,107 10	4,063 05	2 04	No debt.	454,819 00	446,461 00	1,214
Salem, ...	129,575 34	114,980 89	2 26	87,695 00	14,628,850 00	14,213,726 00	20,934
Salisbury, ...	10,670 47	9,114 20	1 64	700 00	1,276,879 00	1,279,152 00	3,185
Saugus, ...	7,886 76	9,413 54	2 02	16,970 17	1,103,041 00	1,082,490 00	1,788
South Danvers, ...	34,500 63	31,714 55	1 50	45,000 00	3,105,700 00	3,178,500 00	5,348
Swampscott, ...	6,756 01	6,552 03	1 77	4,500 00	960,279 00	1,060,448 00	1,335
Topsfield, ...	5,871 54	4,614 42	1 93	8,700 00	619,516 00	629,436 00	1,250
Wenham, ...	4,734 55	4,395 47	1 68	6,782 00	541,825 00	537,835 00	1,073
West Newbury, ...	8,230 46	7,407 14	1 62	4,000 00	917,511 00	961,787 00	2,094
Totals, ...	\$751,987 54	\$671,042 32	\$1 81	\$787,379 17	\$80,704,627 33	\$80,598,346 33	151,018
FRANKLIN COUNTY.							
Ashfield, ...	\$5,135 31	\$4,492 37	\$1 92	No debt.	\$612,848 00	\$592,409 00	1,342
Barnardston, ...	3,619 28	3,155 18	1 68	\$2,950 00	435,266 00	434,650 00	908
Buckland, ...	4,233 00	3,688 00	1 16	400 00	470,000 00	494,251 00	1,614
Charltonmont, ...	5,921 86	3,921 07	2 03	4,200 00	344,848 66	332,475 83	1,113
Colrain, ...	8,217 73	5,544 25	2 24	6,000 00	540,000 00	541,300 00	1,604
Conway, ...	*	6,463 25	1 50	4,661 90	*	635,927 00	1,784
Deerfield, ...	9,871 55	9,609 71	1 50	No debt.	1,290,583 60	1,189,850 00	2,766

Erving, ...	2,332 44	1,962 12	2 44	299 70	164,990 00	167,908 00	471
Gill, ...	3,044 00	2,656 00	2 11	450 00	362,961 00	361,278 00	732
Greenfield, ...	15,823 95	14,560 49	1 66	28,666 67	1,678,601 00	1,563,138 00	2,945
Hawley, ...	2,806 51	2,538 04	1 90	*	174,389 00	174,505 00	774
Heath, ...	2,948 62	2,350 00	2 14	1,800 00	236,760 33	234,202 90	741
Leverett, ...	3,747 22	3,224 46	2 15	No debt.	249,528 17	248,235 16	982
Leyden, ...	3,057 31	2,544 39	2 39	750 00	288,970 16	289,375 16	653
Monroe, ...	780 61	656 92	2 25	75 00	68,174 90	73,855 75	217
Montague, ...	5,780 40	5,230 05	2 02	*	633,860 00	613,030 00	1,509
New Salem, ...	5,495 72	4,718 24	2 35	1,696 06	391,050 00	383,516 00	1,221
Northfield, ...	7,717 14	6,663 04	1 42	3,000 00	610,842 00	632,988 00	1,951
Orange, ...	9,073 13	7,329 82	2 17	5,329 27	522,715 00	510,048 00	1,753
Rowe, ...	2,482 30	2,132 01	2 17	No debt.	177,685 67	172,247 33	601
Shelburne, ...	5,024 97	4,327 12	1 95	500 00	743,742 00	725,108 00	1,401
Shutesbury, ...	3,308 52	2,973 14	2 55	1,000 00	240,480 00	225,880 00	939
Sunderland, ...	3,755 66	2,758 69	1 84	*	406,738 00	377,328 00	839
Warwick, ...	6,453 75	4,766 37	1 68	2,911 28	295,340 00	256,743 00	1,002
Wendell, ...	4,614 47	4,106 72	1 75	3,984 31	232,655 00	231,279 00	738
Whately, ...	3,956 27	3,184 91	1 32	No debt.	644,956 00	688,393 00	1,052
Totals, ...	\$129,201 78	\$115,556 36	\$1 93	\$62,674 19	\$11,817,983 89	\$12,149,921 13	31,652
HAMPTEN COUNTY.							
Agawam, ...	\$5,706 98	\$5,115 36	\$1 68	\$2,300 00	\$685,470 00	\$686,486 00	1,543
Blandford, ...	4,580 27	3,750 35	1 96	1,550 00	539,806 66	498,933 00	1,271
Brimfield, ...	7,572 55	5,415 41	1 70	3,580 00	660,683 33	651,050 00	1,343
Chester, ...	4,154 50	3,969 10	2 00	No debt.	426,754 00	429,933 00	1,255
Chicopee, ...	22,837 57	20,154 93	2 00	3,200 00	3,478,720 00	2,974,550 00	7,576
Granville, ...	3,675 77	3,035 98	*	No debt.	385,577 00	372,113 00	1,316

* No returns.

ABSTRACT—Continued.

CITIES AND TOWNS.	ASSESSMENTS.		POLL TAX.	EXISTING DEBT.	VALUATION.		Population, Census of 1855.
	1857.	1858.			1857.	1858.	
HAMPDEN—Continued.							
Holland, ...	\$1,197 19	\$883 38	\$1 24	\$250 00	\$118,700 00	\$118,933 00	392
Holyoke, ...	19,120 36	14,877 81	1 50	10,160 00	2,021,109 00	2,084,826 00	4,639
Longmeadow, ...	6,658 52	4,969 46	2 06	*	857,958 00	901,067 00	1,348
Ludlow, ...	5,154 35	3,767 18	1 66	2,055 01	435,300 00	434,480 00	1,191
Monson, ...	5,300 63	6,015 11	1 50	No debt.	1,016,372 00	1,013,786 00	2,942
Montgomery, ...	1,780 31	1,577 80	1 99	No debt.	172,006 64	167,234 00	413
Palmer, ...	12,706 73	9,824 35	1 50	6,900 00	1,115,291 00	1,095,401 00	4,012
Russell, ...	2,914 61	2,496 42	2 47	500 00	192,533 00	186,483 00	677
Southwick, ...	4,099 20	3,043 05	1 13	972 00	597,263 00	587,233 00	1,130
Springfield, ...	86,902 22	78,299 69	2 00	124,577 00	8,558,720 00	8,381,140 00	13,788
Tolland, ...	*	*	*	No debt.	*	*	603
Wales, ...	2,423 26	2,009 83	1 75	1,200 00	254,573 00	249,726 00	713
Westfield, ...	21,445 18	16,357 54	1 64	9,397 10	2,709,747 00	2,707,898 00	4,575
West Springfield, ...	*	6,760 00	1 90	3,700 00	*	984,000 00	2,090
Wilbraham, ...	6,681 13	6,187 81	1 99	2,500 00	787,461 00	765,856 00	2,032
Totals, ...	\$224,911 33	\$198,510 56	\$1 77	\$172,841 11	\$25,014,080 63	\$25,291,128 00	54,849
HAMPSHIRE COUNTY.							
Amherst, ...	\$11,632 53	\$9,820 26	\$1 70	\$2,677 89	\$1,521,127 28	\$1,571,549 70	2,937
Belchertown, ...	9,737 82	7,125 16	1 84	1,200 00	1,049,006 82	1,033,020 66	2,698
Chesterfield, ...	3,830 28	3,242 57	1 50	No debt.	407,644 00	379,172 00	950
Cummington, ...	4,232 87	3,729 76	2 43	No debt.	318,150 00	322,520 00	1,004
Easthampton, ...	9,159 31	8,053 07	2 10	3,106 56	926,298 00	903,346 00	1,386

Enfield, ...	4,183 04	3,702 94	1 69	2,795 00	523,675 00	535,750 00	1,036
Goshen, ...	2,103 00	1,800 91	2 31	900 00	181,460 00	179,838 00	471
Granby, ...	4,409 60	2,564 51	1 65	No debt.	500,181 00	468,763 00	1,001
Greenwich, ...	3,081 66	3,083 00	1 63	90 90	277,032 00	268,335 00	803
Hadley, ...	9,033 63	7,229 59	1 85	No debt.	1,220,500 00	1,233,600 00	1,928
Hatfield, ...	4,730 33	5,006 18	1 70	No debt.	988,913 50	1,024,769 40	1,162
Huntington, ...	5,556 61	4,386 15	2 02	No debt.	159,104 40	160,257 18	1,172
Middlefield, ...	2,592 48	2,523 29	2 23	No debt.	360,265 00	345,270 00	677
Northampton, ...	26,442 21	24,503 36	1 70	10,500 00	3,553,300 00	3,139,000 00	5,819
Pelham, ...	3,006 97	1,694 59	1 50	1,600 00	202,652 00	181,148 00	789
Plainfield, ...	3,037 07	2,617 13	1 56	No debt.	236,600 00	230,800 00	652
Prescott, ...	3,661 38	2,952 87	2 59	*	252,120 83	250,130 83	643
South Hadley, ...	7,106 21	5,999 20	1 50	No debt.	1,024,475 00	1,128,416 00	2,051
Southampton, ...	4,938 37	3,664 81	2 09	500 00	491,854 83	491,043 50	1,195
Ware, ...	13,644 06	10,610 93	1 66	5,000 00	1,466,337 00	1,342,997 00	3,498
Westhampton, ...	3,241 31	2,766 88	1 50	200 00	244,745 00	246,668 00	670
Williamsburg, ...	7,192 99	4,196 66	1 64	1,000 00	906,619 50	899,803 43	1,831
Worthington, ...	5,724 17	5,857 94	1 69	1,000 00	409,166 00	383,554 00	1,112
Totals, ...	\$152,360 84	\$127,131 76	\$1 83	\$30,570 35	\$17,130,227 27	\$16,709,751 70	35,485
MIDDLESEX COUNTY.							
Acton, ...	\$7,277 81	\$7,424 94	\$1 64	2,450 00	\$812,424 00	\$804,923 00	1,078
Ashby, ...	4,405 49	3,627 41	1 69	No debt.	548,087 20	550,468 33	1,176
Ashland, ...	8,582 34	7,339 85	1 84	15,926 21	531,575 00	541,606 00	1,308
Bedford, ...	5,948 92	5,090 21	1 88	10,000 00	483,459 00	482,715 00	986
Billerica, ...	7,567 78	6,725 14	2 12	2,528 27	879,753 00	926,026 00	1,772
Boxborough, ...	2,243 65	2,185 30	2 32	200 00	218,054 32	175,965 36	413
Brighton, ...	24,507 53	16,318 98	1 99	*	3,239,945 66	3,272,649 83	2,895

* No return.

ABSTRACT—Continued.

CITIES AND TOWNS.	ASSESSMENTS.		POLL TAX.	EXISTING DEBT.	VALUATION.		Population, Census of 1855.
	1857.	1858.			1857.	1858.	
MIDDLESEX—Continued.							
Burlington, ...	\$5,128 60	\$4,945 82	\$2 25	\$4,700 00	\$410,460 00	\$393,551 00	564
Cambridge, ...	169,137 20	192,838 59	1 70	240,692 00	20,148,150 00	20,261,850 00	20,473
Carlisle, ...	3,510 67	3,193 48	2 22	2,800 00	340,281 00	329,852 00	630
Charlestown, ...	144,279 30	136,169 90	2 17	160,498 00	14,736,000 00	15,094,600 00	21,700
Chelmsford, ...	9,713 22	8,501 80	1 68	3,724 77	1,269,661 16	1,282,070 33	2,140
Concord, ...	15,668 44	13,072 15	1 75	15,000 00	1,594,895 00	1,560,800 00	2,244
Draent, ...	7,405 63	6,107 24	2 05	1,456 34	862,617 00	858,187 00	1,966
Dunstable, ...	2,794 73	2,467 92	1 76	2,850 00	402,479 00	396,935 00	533
Frammingham, ...	21,524 52	24,281 17	2 06	29,788 61	2,436,660 00	2,381,200 00	4,676
Groton, ...	13,161 80	14,672 08	1 70	4,000 00	1,435,350 00	1,404,020 00	2,745
Holliston, ...	14,241 37	13,117 17	1 84	30,442 27	1,476,883 00	1,439,567 00	2,894
Hopkinton, ...	15,557 33	14,775 47	1 88	*	1,235,588 00	1,281,620 00	3,934
Lexington, ...	14,936 56	15,903 03	2 00	13,490 00	1,942,959 50	1,882,440 05	2,549
Lincoln, ...	3,110 00	4,694 72	1 75	No debt.	515,354 00	513,315 00	721
Littleton, ...	5,343 62	4,865 57	1 68	800 00	614,875 00	643,949 00	985
Lowell, ...	192,621 02	186,252 73	1 75	180,000 00	21,371,120 00	20,753,361 00	37,551
Malden, ...	39,675 29	28,111 91	1 85	68,082 38	3,320,310 00	3,295,995 00	4,592
Marlborough, ...	18,260 61	13,699 75	1 60	8,975 00	1,727,950 00	1,703,940 00	4,288
Medford, ...	36,611 60	24,023 28	1 72	36,700 00	5,136,614 00	4,912,121 00	4,603
Melrose, ...	16,949 84	10,344 46	1 90	27,103 85	1,343,380 00	1,287,107 00	1,976
Natick, ...	23,012 99	22,396 69	1 57	22,881 21	1,836,450 00	1,682,483 33	4,138
Newton, ...	50,262 37	41,317 73	1 50	35,040 42	7,232,783 00	6,955,966 00	6,768
North Reading, ...	5,731 18	3,771 73	1 65	3,865 21	485,207 00	492,267 00	1,050
Pepperell, ...	7,171 72	3,921 42	1 21	4,353 78	749,000 00	760,644 00	1,765

Reading, ...	11,585 03	9,897 10	1 90	11,082 20	1,203,486 00	1,241,227 00	2,522
Sherborn, ...	5,871 49	5,299 42	1 69	5,190 00	844,532 00	832,266 00	1,071
Shirley, ...	6,079 53	5,337 67	1 93	9,000 00	693,705 00	663,838 00	1,479
Somerville, ...	42,285 00	39,891 90	1 63	38,000 00	5,566,600 00	5,736,700 00	5,806
South Reading, ...	18,524 32	13,001 53	2 05	14,461 13	1,703,261 00	1,765,456 00	2,758
Stoneham, ...	9,997 49	12,107 72	1 58	9,400 00	1,052,412 00	1,078,770 00	2,518
Stow, ...	5,783 45	4,236 78	1 50	No debt.	695,504 00	678,203 00	1,485
Sudbury, ...	8,173 16	7,989 78	2 12	1,000 00	1,046,110 00	1,012,130 00	1,673
Tewksbury, ...	5,831 00	4,196 00	1 50	685 79	609,328 00	613,264 00	1,716
Townsend, ...	8,714 90	6,088 81	1 64	*	593,979 00	619,130 00	2,092
Tyngsborough, ...	4,385 99	3,348 42	1 78	*	316,623 00	337,833 00	714
Waltham, ...	36,821 25	29,081 60	1 95	41,629 95	4,605,900 00	4,451,500 00	6,049
Watertown, ...	27,223 85	29,020 00	2 20	37,725 00	3,681,050 00	3,660,000 00	3,578
Wayland, ...	5,812 31	4,558 21	1 89	8,372 77	517,145 00	559,231 00	1,178
West Cambridge, ...	21,786 83	20,391 05	1 72	24,950 31	3,260,264 00	3,051,765 00	2,670
Westford, ...	7,285 52	6,216 23	1 70	3,400 00	793,446 00	789,446 00	1,586
Weston, ...	7,164 95	6,404 96	2 35	5,631 00	783,683 00	815,383 00	1,205
Wilington, ...	5,088 05	3,859 96	2 14	2,000 00	454,042 00	448,716 00	958
Winchester, ...	12,047 19	10,124 06	1 94	12,000 00	1,573,613 00	1,537,635 00	1,801
Woburn, ...	28,865 02	20,123 89	1 76	9,375 21	3,381,608 00	3,420,636 00	5,448
Totals, ...	\$1,175,705 37	\$1,083,331 23	\$1 84	\$1,162,311 68	\$132,777,612 74	\$131,635,323 23	194,023
NANTUCKET COUNTY.	\$52,700 00	\$42,242 00	\$1 81	\$103,320 37	\$5,250,474 00	\$4,547,241 00	8,064
NORFOLK COUNTY.							
Bellingham, ...	\$5,624 80	\$3,491 73	\$1 57	\$500 00	\$478,692 00	\$481,233 34	1,413
Braintree, ...	14,696 87	15,451 70	2 06	20,000 00	1,384,092 00	1,410,248 00	3,472
Brookline, ...	54,718 92	48,058 50	2 00	56,700 00	9,569,300 00	9,217,300 00	3,737

* No return.

ABSTRACT—Continued.

CITIES AND TOWNS.	ASSESSMENTS.		POLL TAX.	EXISTING DEBT.	VALUATION.		Population, Census of 1855.
	1857.	1858.			1857.	1858.	
NORFOLK—Continued.							
Canton, ...	\$13,022 65	\$9,321 29	\$1 89	\$3,502 38	\$1,886,380 00	\$1,996,979 00	3,115
Cohasset, ...	8,709 70	9,081 40	2 00	17,000 00	831,763 00	935,322 00	1,879
Dedham, ...	41,086 25	33,000 37	1 69	9,600 70	4,301,977 00	4,441,179 00	5,633
Dorchester, ...	87,915 90	73,928 70	1 50	51,350 00	10,833,000 00	10,692,000 00	8,340
Dover, ...	4,167 43	2,899 96	1 69	No debt.	314,395 83	306,983 33	745
Foxborough, ...	11,837 59	9,215 85	1 61	10,000 00	1,283,880 00	1,153,750 00	2,570
Franklin, ...	8,288 16	6,147 25	1 98	3,700 00	690,883 33	702,830 00	2,044
Medfield, ...	6,211 69	3,234 11	1 94	No debt.	581,119 29	572,874 00	984
Medway, ...	14,151 05	10,263 57	1 64	No debt.	1,267,905 00	1,200,788 00	3,230
Milton, ...	18,944 97	14,820 13	1 50	9,279 10	2,861,000 00	2,975,100 00	2,656
Needham, ...	13,834 25	13,403 36	2 04	5,200 00	1,655,326 00	1,650,986 00	2,401
Quincy, ...	37,280 82	28,042 60	1 50	26,625 62	3,619,200 00	3,637,300 00	5,921
Randolph, ...	19,854 00	19,182 00	1 89	*	2,405,160 00	2,524,670 00	5,538
Roxbury, ...	179,498 00	174,177 94	1 71	280,240 95	17,327,000 00	17,550,200 00	18,469
Sharon, ...	5,979 40	4,933 20	1 66	No debt.	653,234 00	650,517 00	1,331
Stoughton, ...	16,209 41	16,519 48	1 83	7,100 00	1,532,582 00	1,550,106 00	4,370
Walpole, ...	7,897 53	6,519 31	2 04	1,000 00	928,005 00	935,159 00	1,935
West Roxbury, ...	43,060 86	53,149 22	1 78	No debt.	7,652,100 00	8,267,300 00	4,812
Weymouth, ...	32,352 11	24,152 90	1 75	*	2,813,183 33	2,850,383 00	6,530
Wrentham, ...	9,745 41	11,684 84	1 65	553 35	1,244,096 00	1,240,192 00	3,242
Totals, ...	\$655,087 80	\$589,679 44	\$1 78	\$502,352 10	\$76,114,273 78	\$76,949,399 67	94,367

PLYMOUTH COUNTY.

	\$29,968 69	\$29,054 24	\$1 74	*	\$3,128,671 00	\$3,184,300 00	6,937
Abington, ...	14,332 79	12,292 09	1 76	No debt.	1,863,284 00	1,819,828 00	3,363
Bridgewater, ...	4,268 01	3,620 00	1 50	*	441,233 00	410,533 33	1,205
Carver, ...	8,655 43	12,273 62	1 67	152 00	1,065,250 00	1,059,300 00	2,620
Duxbury, ...	11,505 57	9,105 12	1 80	2,855 25	1,261,550 50	1,263,120 00	2,930
East Bridgewater, ...	4,166 54	2,863 01	1 63	1,500 00	279,450 00	263,510 00	786
Halifax, ...	7,327 26	6,594 10	1 64	658 50	627,205 00	643,226 00	1,674
Hanover, ...	5,344 30	4,485 09	2 13	No debt.	427,900 00	424,766 00	1,231
Hanson, ...	19,658 27	21,097 66	1 98	25,552 09	2,452,301 00	2,448,006 00	4,257
Hingham, ...	1,111 15	1,430 24	2 10	2,110 00	207,358 00	207,906 17	292
Hull, ...	8,660 01	5,432 44	1 97	No debt.	1,167,333 00	1,191,166 00	1,571
Kingston, ...	4,093 68	5,629 91	1 62	*	604,520 00	618,714 00	1,188
Lakeville, ...	4,010 91	3,766 23	2 01	2,000 00	546,900 00	503,930 00	969
Marion, ...	7,828 99	7,077 89	1 99	1,000 00	733,733 00	718,583 00	1,876
Marshfield, ...	*	6,613 50	1 50	3,091 80	—	862,250 00	—
Mattapoisett, †	18,842 84	14,812 83	1 58	No debt.	2,261,390 00	2,149,590 00	4,324
Middleborough, ...	20,194 18	15,501 45	1 70	2,350 00	2,036,724 00	2,076,311 84	5,205
North Bridgewater, ...	7,070 44	5,757 04	2 12	No debt.	510,515 00	505,150 00	1,500
Pembroke, ...	40,071 68	31,050 90	1 68	98,552 40	3,217,200 00	3,178,500 00	6,484
Plymouth, ...	4,858 72	4,406 61	1 50	1,100 00	409,797 00	403,046 00	1,000
Plympton, ...	14,699 00†	5,788 00	1 90	3,000 00	1,547,244 00†	725,700 00	3,018
Rochester, ...	8,705 45	6,454 43	1 56	1,467 88	921,616 00	907,997 00	2,269
Scituate, ...	9,327 52	9,960 86	2 16	*	890,000 00	887,993 33	1,786
South Scituate, ...	9,988 95	8,906 18	1 87	5,300 00	1,327,951 00	1,142,737 00	3,246
Wareham, ...	6,496 29	5,446 97	2 00	No debt.	701,791 00	689,676 00	1,734
West Bridgewater, ...							
Totals, ...	\$271,186 67	\$230,420 44	\$1 80	\$150,689 92	\$28,630,916 83	\$28,286,579 67	61,495

* No return.

† New town, organized June 20, 1857. Tax for 1857 assessed by the town of Rochester.

‡ What is now Mattapoisett included.

ABSTRACT—Continued.

CITIES AND TOWNS.	ASSESSMENTS.		TOLL TAX.	EXISTING DEBT.	VALUATION.		Population, Census of 1855.
	1857.	1858.			1857.	1858.	
SUFFOLK COUNTY.							
Boston, ...	2,450,183 67	2,259,045 36	\$2 10	9,163,049 77	258,111,900 00	254,714,100 00	160,490
Chelsea, ...	69,700 00	73,983 00	1 65	136,966 00	7,231,850 00	7,645,400 00	10,151
North Chelsea, ...	5,332 40	5,483 89	1 85	13,700 00	700,800 00	748,525 00	793
Winthrop,*	—	—	—	—	—	—	407
Totals, ...	\$2,525,216 07	\$2,338,512 25	\$1 87	\$9,313,715 77	\$266,044,550 00	\$263,108,025 00	171,841
WORCESTER COUNTY.							
Ashburnham, ...	\$11,837 68	\$7,995 60	\$2 13	*	\$774,533 33	\$751,683 34	2,211
Athol, ...	9,969 62	10,493 52	1 60	\$13,102 72	811,139 00	861,534 00	2,395
Auburn, ...	4,928 17	3,622 48	2 12	2,114 00	385,619 00	380,730 00	885
Barre, ...	15,522 49	13,470 28	2 24	2,052 00	1,651,900 00	1,649,600 00	2,787
Berlin, ...	4,761 56	4,464 24	1 61	7,170 28	373,460 80	382,603 50	976
Blackstone, ...	16,161 56	14,017 68	1 64	9,763 44	2,117,730 50	1,744,860 00	5,346
Bolton, ...	4,229 83	5,250 44	1 50	3,475 00	543,455 00	552,138 00	1,255
Boylston, ...	5,030 68	3,751 74	2 17	5,400 00	488,799 00	467,000 00	835
Brookfield, ...	7,250 90	6,066 18	1 64	500 00	735,766 00	721,947 00	2,007
Charlton, ...	10,431 51	9,701 50	2 11	10,918 97	863,683 00	865,433 00	2,059
Clinton, ...	16,661 39	14,851 79	1 63	14,500 00	1,766,181 00	1,655,723 00	3,636
Dana, ...	3,127 00	3,866 00	1 62	2,464 90	219,297 00	231,352 00	824
Douglas, ...	11,349 35	8,328 06	1 62	13,602 09	822,352 00	884,733 33	2,320
Dudley, ...	6,322 15	5,465 59	2 02	2,387 99	629,775 00	632,945 00	1,523
Fitchburg, ...	35,973 70	33,789 28	1 92	33,986 71	3,220,850 00	3,228,841 00	6,442
Gardner, ...	10,056 22	9,726 25	2 01	*	789,259 00	826,474 00	2,183

Grafton, ...	17,934 99	14,922 21	1 64	3,000 00	1,626,853 00	1,532,016 00	4,409
Hardwick, ...	6,621 24	6,344 16	2 37	No debt.	918,600 00	918,600 00	1,523
Harvard, ...	7,799 44	6,384 02	1 68	857 06	861,906 00	853,139 00	1,533
Holden, ...	5,917 00	6,096 00	1 69	7,700 00	799,000 00	744,244 00	2,114
Hubbardston, ...	8,112 76	6,617 02	2 26	1,026 75	571,000 00	566,492 00	1,744
Lancaster, ...	7,937 12	9,010 40	2 07	1,000 00	721,690 00	782,311 00	1,728
Leicester, ...	15,846 17	14,925 85	2 67	13,228 65	1,314,966 66	1,397,754 00	2,589
Leominster, ...	14,736 89	10,537 09	1 66	4,950 00	1,682,006 00	1,660,273 00	3,200
Lunenburg, ...	6,927 77	6,005 62	2 22	6,850 00	703,151 00	705,534 00	1,224
Mendon, ...	5,298 58	4,123 78	1 72	5,200 00	702,616 00	698,805 00	1,382
Millford, ...	29,865 44	28,384 99	1 57	40,000 00	2,810,081 66	2,826,191 00	7,489
Millbury, ...	13,901 83	9,180 55	1 63	4,490 00	1,167,235 00	1,214,253 00	3,286
New Braintree, ...	4,199 01	4,745 47	2 36	3,300 00	533,514 00	529,566 00	775
Northborough, ...	7,554 46	6,384 10	2 19	4,603 50	866,913 00	881,000 00	1,602
Northbridge, ...	9,049 47	8,220 83	1 63	No debt.	801,785 00	805,580 00	2,104
North Brookfield, ...	14,617 75	10,963 19	1 86	13,311 93	1,003,500 00	1,050,717 00	2,349
Oakham, ...	5,321 39	4,444 52	2 38	2,300 00	332,458 66	327,016 33	1,062
Oxford, ...	13,743 24	10,584 87	1 70	8,300 00	1,213,450 00	1,172,916 00	2,808
Paxton, ...	4,418 61	3,013 92	2 17	800 00	282,806 00	283,002 00	792
Petersham, ...	7,547 81	6,004 20	2 16	5,800 00	729,728 83	707,554 44	1,553
Phillipston, ...	4,004 24	3,344 09	1 70	No debt.	369,923 00	313,221 00	799
Princeton, ...	6,764 40	5,722 38	2 33	350 00	639,549 00	643,558 00	1,317
Royalston, ...	6,662 82	6,290 09	2 26	No debt.	957,229 00	873,591 00	1,469
Rutland, ...	5,349 57	4,206 54	2 10	No debt.	519,317 00	528,750 00	1,102
Shrewsbury, ...	8,735 56	5,908 70	1 70	1,000 00	1,028,500 00	993,480 00	1,636
Southborough, ...	8,467 89	8,505 00	1 63	15,000 00	837,151 00	854,242 00	1,602
Southbridge, ...	13,480 24	11,134 54	1 66	4,000 00	1,236,876 00	1,257,454 00	3,429
Spencer, ...	11,185 26	10,951 14	1 63	6,235 00	1,232,266 00	1,261,316 00	2,527
Sterling, ...	8,684 67	8,512 32	1 70	600 00	931,474 00	903,122 00	1,838

* No return.

ABSTRACT—Continued.

CITIES AND TOWNS.	ASSESSMENTS.		POLL TAX.	EXISTING DEBT.	VALUATION.		Population, Census of 1855.
	1857.	1858.			1857.	1858.	
WORCESTER—Continued.							
Sturbridge, ...	\$7,349 45	\$6,584 61	\$1 99	\$8,000 00	\$839,090 00	\$818,080 00	2,188
Sutton, ...	13,406 55	10,268 94	1 66	4,248 00	1,008,390 00	1,020,750 00	2,718
Templeton, ...	12,648 32	10,448 40	1 94	8,829 43	1,023,952 00	997,142 00	2,618
Upton, ...	9,419 92	6,819 57	1 64	9,500 00	708,888 00	709,186 00	2,035
Uxbridge, ...	12,890 26	10,815 58	2 03	—	1,502,381 00	1,457,917 00	3,068
Warren, ...	9,168 58	8,681 76	1 96	10,265 44	898,128 00	877,518 00	1,793
Webster, ...	9,710 70	7,255 37	1 50	5,715 47	832,685 00	826,562 00	2,727
Westborough, ...	11,704 70	11,201 05	1 86	16,700 00	1,144,766 00	1,183,856 00	3,014
West Boylston, ...	6,800 00	5,800 00	1 78	3,995 75	835,367 00	826,040 00	2,310
West Brookfield, ...	7,055 00	4,742 00	1 66	2,000 00	612,754 33	590,045 66	1,364
Westminster, ...	8,851 47	6,284 92	1 66	4,500 00	801,185 00	749,167 00	1,979
Winchendon, ...	11,635 80	9,031 65	2 00	2,010 40	998,554 00	950,191 00	2,747
Worcester, ...	158,999 60	123,776 55	1 70	98,000 00	18,471,600 00	16,385,650 00	22,286
Totals, ...	\$733,941 78	\$616,298 62	\$1 87	\$149,604 48	\$73,250,115 47	\$70,620,029 60	149,516

RECAPITULATION.

COUNTIES.	ASSESSMENTS.		AVERAGE POLL TAX.	EXISTING DEBT.	VALUATION.		Population, Census of 1855.
	1857.	1858.			1857.	1858.	
Barnstable County, . .	\$132,341 07	\$124,399 37	\$1 70	\$83,229 34	\$13,984,318 00	\$12,686,046 92	35,442
Berkshire County, . .	166,007 76	148,925 51	1 80	80,587 02	22,908,621 87	22,808,309 65	52,791
Bristol County, . . .	569,740 86	518,092 45	1 77	436,252 30	68,901,233 21	65,530,496 00	87,425
Dukes County, . . .	19,036 31	15,974 35	1 76	11,521 16	2,889,890 16	2,855,885 16	4,401
Essex County, . . .	751,987 54	671,042 32	1 81	787,379 17	80,704,627 33	80,598,346 33	151,018
Franklin County, . .	129,201 78	115,556 36	1 93	62,674 19	11,817,983 89	12,149,921 13	31,652
Hampden County, . .	224,911 33	198,310 56	1 77	172,841 11	25,014,080 63	25,291,128 00	54,849
Hampshire County, . .	152,360 84	127,131 76	1 83	30,570 35	17,130,227 27	16,709,751 70	35,485
Middlesex County, . .	1,175,705 37	1,083,331 23	1 84	1,162,311 68	132,777,612 74	131,635,323 23	194,023
Nantucket County, . .	52,700 00	42,242 00	1 81	103,320 37	5,250,474 00	4,547,241 00	8,064
Norfolk County, . . .	655,087 80	589,679 44	1 78	502,352 10	76,114,273 78	76,949,399 67	94,367
Plymouth County, . .	271,186 67	230,420 44	1 80	150,689 92	28,630,916 83	28,286,579 67	61,495
Suffolk County, . . .	2,525,216 07	2,338,512 25	1 87	9,313,715 77	266,044,550 00	263,108,025 00	171,841
Worcester County, . .	733,941 78	616,298 62	1 87	449,604 48	73,250,115 47	70,620,029 60	149,516
Totals, ...	\$7,559,425 18	\$6,820,116 66	\$1 81	\$13,347,048 96	\$824,518,925 18	\$813,776,483 06	1,132,369

[A.] TABLE OF RECAPITULATION,

With comparison of Estate Valuations of 1850 and 1858, and an exhibit of the Percentage of Increase, or Reduction for each County, and for the State.

COUNTIES.	POPULATION. 1855.	ASSESSMENTS.		AVERAGE OF POLL TAX. 1858.	VALUATION.		PER CENT. OF INCREASE.
		1857.	1858.		1850.	1858.	
Barnstable, ...	35,442	\$132,341 07	\$124,399 37	\$1 70	\$8,897,349 00	\$12,686,046 00	42.58
Berkshire, ...	52,791	166,007 76	148,925 51	1 80	17,197,607 00	22,808,309 00	32.63
Bristol, ...	87,425	569,740 86	518,092 45	1 77	39,243,560 00	65,530,496 00	66.98
Dukes, ...	4,401	19,036 31	15,974 35	1 76	1,698,005 00	2,855,885 00	68.19
Essex, ...	151,018	751,987 54	671,042 32	1 81	56,556,466 00	80,598,346 00	42.51
Franklin, ...	31,652	129,201 78	115,556 36	1 93	11,211,309 00	12,149,921 00	8.37
Hampden, ...	54,849	224,911 33	198,510 56	1 77	22,621,220 00	25,291,128 00	11.80
Hampshire, ...	35,485	152,360 84	127,131 76	1 83	13,331,240 00	16,709,751 00	25.34
Middlesex, ...	194,023	1,175,705 37	1,083,331 23	1 84	83,264,719 00	131,635,323 00	58.80
Nantucket, ...	8,064	52,700 00	42,242 00	1 81	4,595,362 00	4,547,241 00	*01.44
Norfolk, ...	94,367	655,087 80	589,679 44	1 78	47,034,521 00	76,949,399 00	63.60
Plymouth, ...	61,495	271,186 67	239,420 41	1 80	19,200,668 00	28,286,579 00	47.32
Suffolk, ...	171,841	2,525,216 07	2,338,512 25	1 87	217,587,172 00	263,108,025 00	20.97
Worcester, ...	149,516	733,941 78	616,298 62	1 87	55,497,794 00	70,620,029 00	27.24
Totals, ...	1,132,369	\$7,559,425 18	\$6,820,116 66	\$1 81	\$597,936,992 00	\$813,776,453 00	36.91

* Decrease.

EXPLANATORY NOTE—[A.]

The information contained in the foregoing document was furnished on request by the clerks of the various cities and towns to whom circulars were addressed inclosing stamped envelopes in which to make their returns. The first circular was sent from the secretary's office November 29th, and quite a large number of towns responded to it immediately. But some eighty-five towns not having made any return on the 15th of December, a second circular was forwarded to them, and on the 28th still a third circular was addressed to the remaining delinquent towns, some of which, as will be perceived by the tables, have made no return.

The returns have in many instances been somewhat approximate, and the tables must be so considered, on account of the manner in which the basis for a valuation has been given.

For instance, in some towns the returns have given a reduced valuation, being six per cent. of the real valuation, and in other cases one-half or one-third of the actual valuation has been given, according to a custom of some of the smaller towns, which the law of 1853, chap. 319, should have rendered obsolete. In all these cases the valuation has been computed upon the basis given, and augmented so as to represent the actual valuation.

So also in regard to assessments, many towns have returned so much for "town grant," so much for State and County tax, and another amount to be paid in labor for highways. In all cases the aggregate of these different items has been given in the tables.

The following towns have returned the sums set against their names as collected under chap. 139, of the Acts of the year 1858, known as the dog tax, and are not included elsewhere. Holyoke, \$180; Quincy, \$531; Southampton, \$70; Sterling, \$134; West Bridgewater, \$132.

Attached to this may be seen the circular and blank form furnished for the returns.

COMMONWEALTH OF MASSACHUSETTS.

Council Chamber, Boston, November 20, 1858.

Gentlemen:—I desire to obtain, for the use of the legislature, a statement of the amount of taxes assessed annually upon the people of the Commonwealth. There is no information in the possession of the government upon which a correct estimate may be based. I shall receive it as a favor if you will furnish me as soon as practicable with a statement of the taxes assessed in the town in which you reside for each of the years 1857 and 1858. It should include State, County and Town taxes for all purposes, whether paid in money or in labor. I shall also be greatly obliged to you for a statement of the Assessors' valuation of real and personal property for the same years, 1857 and 1858, and also for the amount of the Poll Tax assessed on each person for 1858, and the aggregate town debt.

A blank form is appended to this sheet.

I am, very respectfully, yours, &c., &c.,

NATH'L P. BANKS.

To the Selectmen and Town Clerk.

R E T U R N.

A Statement of the amount of Taxes assessed upon the Town of
for the years 1857 and 1858 :—

1857,	.	.	.	.	.	.	.	.	.	£
1858,	.	.	.	.	.	.	.	.	.	£
1858,	Amount of Poll Tax assessed on each person,									£
1858,	Aggregate town debt, ...									£

A statement of the Assessors' valuation of Real and Personal Property
for the years 1857 and 1858 :—

1857,	.	.	.	.	.	.	.	.	.	£
1858,	.	.	.	.	.	.	.	.	.	£

Signed,

Town Clerk for the Town of

[The Return may be signed by Selectmen or Town Clerk.]

[B.]

COMMONWEALTH OF MASSACHUSETTS.

AGRICULTURAL DEPARTMENT, STATE HOUSE, }
Boston, January 1, 1859. }*To His Excellency N. P. BANKS :*

SIR,—I have made, at your request, a careful estimate of the agricultural products of the Commonwealth for the year 1858, and find the aggregate amount to be not less than thirty-two millions of dollars (\$32,000,000), including the cultivated crops, estimated at the present quoted market prices, and the value of pasturage which was not included in the official returns of 1855.

This estimate is based in part upon the official returns referred to, in part upon extensive inquiries of men conversant with the subject in various sections of the State, and in part upon my own observations.

The year has been one of marked prosperity, few if any of the cultivated crops falling below an average, while most of the staple products of the State, like Indian corn, potatoes, grass and hay, have been more than usually abundant. Of the first, Indian corn, the aggregate yield was about 3,643,440 bushels, the value of which cannot be less than three millions (\$3,000,000.)

The yield of potatoes was unusually good in most parts of the Commonwealth, and, in some sections it has not been surpassed for many years. The aggregate yield cannot be less than six millions of bushels, and the value including the early and late prices, not less than three millions (\$3,000,000.)

The grass and hay crop is estimated to have been at least ten per cent. above the yield of average years and the aggregate value at not less than ten millions (\$10,000,000.)

The value of live farm stock in the State, not included in the above, is estimated to be over seventeen millions (\$17,000,000.)

Very respectfully,

Your obedient servant,

CHARLES L. FLINT,

Secretary of the State Board of Agriculture.

[B.] AGGREGATES OF PRODUCTS OF MASSACHUSETTS, FROM THE CENSUS OF 1855.

COUNTIES.	AGRICULTURE.	LIVE STOCK.	MANUFACTURES.	FISHERIES.	MISCELLANEOUS.	TOTALS.
Barnstable County, . .	\$512,215 20	\$323,465 00	\$1,214,331 91	\$1,014,547 00	\$27,880 00	\$3,092,441 11
Berkshire County, . .	2,614,464 19	1,377,086 00	8,665,477 80	—	198,237 00	12,855,264 99
Bristol County, . . .	2,884,594 90	971,843 00	17,836,085 28	6,698,635 00	907,216 00	29,298,374 18
Dukes County, . . .	111,508 20	82,463 00	508,821 00	52,350 00	7,090 00	762,232 20
Essex County, . . .	2,368,933 86	1,319,547 00	33,091,165 61	1,495,012 00	1,573,361 00	39,848,019 47
Franklin County, . .	1,516,304 82	1,104,164 00	2,239,312 12	—	179,469 90	5,039,250 84
Hampden County, . .	1,804,540 50	1,010,706 00	8,938,125 18	2,310 00	364,763 00	12,120,444 68
Hampshire County, . .	1,887,357 44	1,004,372 00	3,890,570 40	6,000 00	234,579 00	7,022,878 84
Middlesex County, . .	4,813,083 66	2,168,105 00	49,460,499 13	15,700 00	1,748,215 92	58,205,634 71
Nantucket County, . .	98,272 05	57,105 00	1,066,042 98	434,798 00	12,582 00	1,668,800 03
Norfolk County, . . .	1,678,475 06	1,228,600 00	19,498,952 47	60,990 00	1,777,037 00	24,244,054 53
Plymouth County, . .	2,788,284 70	833,947 00	8,611,920 72	431,758 00	219,491 63	12,894,702 05
Suffolk County, . . .	103,941 25	798,930 00	43,513,303 07	457,682 00	3,315,100 00	48,188,956 32
Worcester County, . .	5,247,247 20	3,143,188 00	30,085,811 08	—	2,243,381 50	40,719,627 78
Totals, ...	\$28,429,223 03	\$15,423,521 00	\$228,619,721 75	\$10,669,782 00	\$12,808,433 95	\$295,950,681 73

[C.] STATEMENT

OF COUNTY TAXES, COUNTY DEBTS, THEIR ANNUAL INCREASE, AND THE ANNUAL INTEREST PAID; TOGETHER WITH THE COSTS OF CRIMINAL PROSECUTIONS IN THE SEVERAL COUNTIES OF MASSACHUSETTS, FOR THE TEN YEARS ENDING DEC. 31, 1858.

[C.] AGGREGATE COUNTY TAX GRANTED BY THE LEGISLATURE.

COUNTIES.	1849.	1850.	1851.	1852.	1853.	1854.	1855.	1856.	1857.	1858.
Barnstable, ...	\$6,500 00	\$6,500 00	\$7,500 00	\$7,500 00	\$8,200 00	\$8,200 00	\$8,200 00	\$8,550 00	\$8,555 00	\$10,000 00
Berkshire, ...	15,000 00	15,000 00	18,000 00	18,000 00	18,000 00	18,000 00	20,000 00	22,000 00	22,000 00	22,000 00
Bristol, ...	25,000 00	25,000 00	30,000 00	30,000 00	30,000 00	35,000 00	35,000 00	50,000 00	50,000 00	50,000 00
Dukes, ...	2,000 00	2,000 00	2,500 00	2,500 00	2,000 00	2,500 00	3,500 00	3,500 00	2,500 00	2,700 00
Essex, ...	32,600 00	32,600 00	55,200 00	55,200 00	55,200 00	78,720 00	78,720 00	98,400 00	98,400 00	80,000 00
Franklin, ...	9,000 00	10,000 00	10,000 00	10,000 00	10,000 00	12,000 00	18,000 00	18,000 00	18,000 00	14,000 00
Hampden, ...	17,000 00	21,500 00	29,000 00	28,000 00	26,000 00	28,000 00	29,000 00	30,500 00	33,000 00	28,000 00
Hampshire, ...	8,000 00	9,000 00	14,000 00	14,000 00	14,000 00	20,000 00	20,000 00	20,000 00	20,000 00	18,000 00
Middlesex, ...	65,642 50	72,206 75	83,264 00	83,264 00	83,265 00	83,264 00	83,264 00	83,264 00	104,080 00	90,000 00
Nantucket, ...	-	-	-	1,275 00	1,150 00	1,300 00	1,000 00	1,400 00	1,200 00	-
Norfolk, ...	21,000 00	26,000 00	40,000 00	43,000 00	45,000 00	55,000 00	55,000 00	55,000 00	55,000 00	40,000 00
Plymouth, ...	14,000 00	14,000 00	16,000 00	16,000 00	20,000 00	20,000 00	20,000 00	20,000 00	25,000 00	27,000 00
Suffolk, ...	None.	None.	None.	None.	None.	None.	None.	None.	None.	None.
Worcester, ...	35,000 00	40,000 00	50,000 00	50,000 00	50,000 00	60,000 00	60,000 00	75,000 00	90,000 00	85,000 00
Aggregates, ...	\$250,742 50	\$273,806 75	\$355,464 00	\$358,739 00	\$362,815 00	\$421,984 00	\$431,684 00	\$485,614 00	\$527,735 00	\$466,700 00

[C.] COUNTY TAXES FOR FIVE AND TEN YEARS.

C O U N T I E S.	Five Years, 1848-52.		Five Years, 1853-57.		Ten Years, 1848-57.		Increase in last Five Years.	
Barnstable, ...	.	\$34,500 00	\$11,705 00	\$76,205 00	\$7,205 00			
Berkshire, ...	.	81,000 00	100,000 00	181,000 00	19,000 00			
Bristol, ...	.	135,000 00	200,000 00	335,000 00	65,000 00			
Dukes, ...	.	11,500 00	14,000 00	25,500 00	2,500 00			
Essex, ...	.	208,200 00	409,440 00	617,640 00	201,240 00			
Franklin, ...	.	47,500 00	76,000 00	123,500 00	28,500 00			
Hampden, ...	.	110,000 00	146,500 00	256,500 00	36,500 00			
Hampshire, ...	.	54,000 00	94,000 00	148,000 00	40,000 00			
Middlesex, ...	.	364,052 25	437,137 00	801,189 25	73,081 75			
Nantucket, ...	.	1,275 00	6,050 00	7,325 00	4,775 00			
Norfolk, ...	.	147,500 00	265,000 00	412,500 00	117,500 00			
Plymouth, ...	.	72,000 00	105,000 00	177,000 00	33,000 00			
Suffolk, ...	.	None.	None.	None.	None.			
Worcester, ...	.	210,000 00	335,000 00	545,000 00	125,000 00			
Aggregates, ...	.	\$1,476,527 25	\$2,229,832 00	\$3,706,359 25	\$753,304 75			

[C.] TABLE,

Showing the Totals of County Taxes for Ten Years, 1849-58; also the Excess of County Tax in 1858 over that of 1849.

COUNTIES.	TOTALS, Ten Years, 1849-58.	EXCESS OF TAX In 1858 over that of 1849
Barnstable, ...	\$79,705 00	\$3,500 00
Berkshire, ...	188,000 00	7,000 00
Bristol, ...	360,000 00	25,000 00
Dukes, ...	25,700 00	700 00
Essex, ...	665,040 00	47,400 00
Franklin, ...	129,000 00	5,000 00
Hampden, ...	270,000 00	11,000 00
Hampshire, ...	157,000 00	10,000 00
Middlesex, ...	831,514 25	24,357 50
Nantucket, ...	7,325 00	-
Norfolk, ...	435,000 00	19,000 00
Plymouth, ...	192,000 00	13,000 00
Suffolk, ...	None.	None.
Worcester, ...	595,000 00	50,000 00
Aggregates, ...	\$3,935,284 25	\$215,957 50

[C.] STATE TAX.*

YEAR.	Amount.
1853, ...	\$300,000 00
1854, ...	300,000 00
1855, ...	449,986 50
1856, ...	599,982 00
1857, ...	899,973 00
1858, ...	359,988 00
	\$2,909,929 00

* None after 1832, until 1845, [\$150,000.]

[C.] MONEY BORROWED OR DEBT OF EACH COUNTY.

COUNTIES.	Amount of Debt in 1848.	Amount of Debt in 1853.	Amount of Debt in 1858.	Increase in 5 Years, 1848-53.	Increase in 5 Years, 1853-58.	Increase in 10 Years, 1848-58.	Increase pres- ent Year, 1858.
Barnstable, .	None.	—	\$2,000 00	—	\$2,000 00	\$2,000 00	—
Berkshire, .	\$11,600 00	\$12,100 00	34,580 00	\$500 00	22,480 00	22,980 00	\$6,950 00
Bristol, .	35,207 00	37,207 00	85,307 00	2,000 00	48,100 00	50,100 00	26,650 00
Dukes, .	1,175 00	3,720 00	14,730 00	2,545 00	11,010 00	13,555 00	7,600 00
Essex, .	77,432 14	176,904 16	285,244 50	99,472 02	108,310 34	207,812 36	2,989 00*
Franklin, .	7,100 00	5,500 00	34,000 00	1,600 00*	28,500 00	26,900 00	140 00
Hampden, .	None.	8,062 36	7,500 00	8,062 36	562 36*	7,500 00	3,690 00
Hampshire, .	None.	52,500 00	50,000 00	52,500 00	2,500 00*	50,000 00	500 00
Middlesex, .	†	188,800 00	300,000 00	188,800 00	111,200 00	300,000 00	14,200 00*
Nantucket, .	None.	None.	None.	None.	None.	None.	None.
Norfolk, .	1,800 00	85,860 83	49,277 63	84,060 83	36,583 20*	47,477 63	23,960 63
Plymouth, .	†	27,000 00	49,000 00	27,000 00	22,000 00	49,000 00	10,000 00
Suffolk, .	None.	None.	None.	None.	None.	None.	None.
Worcester, .	89,000 00	123,534 00	148,234 00	34,534 00	24,700 00	59,234 00	24,500 00
Aggregates, .	\$223,314 14	\$721,188 35	\$1,059,873 13	\$497,874 21	\$338,684 78	\$836,558 99	\$81,836 63

* Decrease.

† Not ascertained.

[C.] MONEY BORROWED, OR COUNTY DEBTS.

COUNTIES.	1848.	1849.	1850.	1851.	1852.	1853.	1854.	1855.	1856.	1857.
Barnstable, ...	*	*	*	*	*	*	*	No debt.	No debt.	\$6,525 00
Berkshire, ...	\$11,600 00	\$10,600 00	\$12,400 00	\$12,400 00	\$10,400 00	\$12,100 00	\$11,400 00	\$16,700 00	\$18,730 00	27,630 00
Bristol, ...	35,207 00	39,407 00	41,507 00	41,507 00	40,207 00	37,207 00	42,207 00	47,307 00	56,207 00	58,957 00
Dukes, ...	1,175 00	1,175 00	531 00	4,771 00	3,520 00	3,720 00	3,551 53	8,350 00	7,650 00	7,430 00
Essex, ...	77,432 14	76,953 96	104,574 96	101,663 79	107,346 52	176,904 16	247,596 65	305,064 66	309,877 67	288,233 50
Franklin, ...	7,100 00	5,936 89	7,500 00	7,500 00	6,000 00	5,500 00	7,000 00	31,000 00	34,000 00	34,000 00
Hampden, ...	No debt	6,537 00	10,579 75	12,079 75	8,201 50	8,082 36	3,910 00	11,814 00	7,010 00	3,810 00
Hampshire, ...	No debt.	No debt.	No debt.	11,500 00	45,500 00	52,500 00	49,500 00	48,500 00	47,500 00	49,500 00
Middlesex, ...	†	93,995 81	158,995 81	168,995 81	183,800 00	188,800 00	188,800 00	208,800 00	233,400 00	314,200 00
Nantucket, ...	-	-	-	-	None.	None.	None.	None.	None	None.
Norfolk, ...	1,800 00	3,800 00	21,800 00	97,117 00	97,117 00	85,860 83	69,117 00	44,317 00	33,317 00	25,317 00
Plymouth, ...	†	-	5,000 00	†	27,000 00	27,000 00	27,000 00	27,000 00	27,000 00	39,000 00
Worcester, ...	89,000 00	89,000 00	93,209 00	100,209 00	118,009 00	123,534 00	120,234 00	120,234 00	120,234 00	123,734 00
Totals, ...	\$223,314 14	\$327,405 66	\$456,097 52	\$557,743 35	\$647,101 02	\$721,188 35	\$770,316 19	\$869,086 66	\$954,925 67	\$978,036 50

[C.] AMOUNT OF INTEREST PAID ANNUALLY.

COUNTIES.	1852.*	1853.	1854.	1855.	1856.	1857.
Barnstable, ...	—	—	—	None.	None.	\$201 88
Berkshire, ...	—	—	—	\$851 88	\$1,067 00	958 26
Bristol, ...	\$2,307 98	\$2,658 89	\$2,798 88	2,609 26	3,273 13	3,233 33
Dukes, ...	—	—	—	—	560 30	423 38
Essex, ...	—	7,093 53	10,472 46	14,737 66	17,779 66	17,090 04
Franklin, ...	540 00	300 00	460 87	1,428 88	1,955 00	2,040 00
Hampden, ...	—	—	—	—	—	—
Hampshire, ...	1,117 00	3,592 61	3,221 02	3,009 00	3,031 50	3,033 30
Middlesex, ...	10,882 34	12,288 22	11,952 40	11,767 72	14,121 25	19,124 11
Nantucket, ...	None.	None.	None.	None.	None.	None.
Norfolk, ...	6,714 54	5,212 30	4,716 87	4,219 54	2,807 04	1,823 50
Plymouth, ...	1,172 59	1,871 32	1,965 71	1,949 55	1,812 21	1,860 94
Worcester, ...	9,468 14	10,260 38	10,537 82	10,021 95	13,440 62	14,634 94
Totals, ...	\$32,202 59	\$43,277 25	\$46,156 03	\$50,628 44	\$59,847 71	\$64,426 68

* No returns previous to 1852.

[C.] *Statement of Payments from the Treasury to County Treasurers in reimbursements of two-thirds of the Costs of Criminal Prosecutions for Ten Years, to 1859.*

Y E A R S .	Two-thirds Costs reimbursed.	One-third Costs paid by Counties.	Totals.
1849, ...	\$63,358 60	\$31,679 30	\$95,037 90
1850, ...	69,947 05	34,973 52	104,920 57
1851, ...	53,199 44	26,599 72	79,799 16
1852, ...	86,268 90	43,134 45	129,403 35
1853, ...	99,094 57	49,547 28	148,641 85
1854, ...	110,885 29	55,442 65	166,327 94
1855, ...	182,235 50	91,117 75	273,343 25
1856, ...	135,134 45	67,567 23	202,701 68
1857, ...	128,280 27	64,140 13	192,420 40
1858,*	286,075 16	143,037 58	429,112 74
Totals, ...	\$1,214,479 23	\$607,239 61	\$1,821,718 84
Five years, 1849-53, .	\$371,868 56	\$185,934 27	\$557,802 83
Five years, 1854-58, .	842,610 67	421,305 34	1,263,916 01
Ten years, 1849-59, .	1,214,479 23	607,239 61	1,821,718 84
Increase in last five y'rs,	470,742 11	235,371 07	706,113 18

* \$205,853.21 paid this year was for previous years.

[C.] *Statement of the Expenditures made on County Account, and the Income from the same since May 1, 1846, for the County of Suffolk.*

N. B.—The financial year commences May 1, and ends with the 30th April.

YEARS.	Gross Expenditures.	Income.	Net Expenses.	Salaries included in Gross Expenses.
1846-7, . .	\$71,765 28	\$31,988 13	\$39,777 15	\$7,000 00§
1847-8, . .	76,320 21	31,747 70	44,572 51	7,100 00§
1848-9, . .	95,836 94	37,761 60	58,075 34	7,552 44§
1849-50, . .	100,359 49	54,551 44	45,808 05	7,800 00§
1850-51, . .	104,975 81	54,546 05	50,429 76	7,800 00§
1851-2, . .	109,032 59	45,156 39	63,876 20	8,169 17§
1852-3, . .	115,345 04	49,334 93	66,010 11	8,307 32§
1853-4, . .	143,815 00	47,398 11	96,416 89	9,700 00§
1854-5, . .	170,291 60	101,948 26	68,343 34	10,366 66§
1855-6, . .	198,004 83	132,233 42	65,771 41	10,567 74§
1856-7, . .	191,422 26	47,045 86†	144,376 40	27,583 56
1857-8,* . .	207,359 41	192,508 96	14,850 45	27,120 48
	\$1,584,528 46	\$826,220 85	\$758,307 61	\$139,067 37
8 mos. 1858,	105,000 00‡	30,000 00‡	75,000 00‡	14,271 15

* To May 1.

† \$75,674.45 due this year, but not paid till 1857-8.

‡ Estimates only to December 31.

§ Judges and Clerks in Police Court.

|| Judges and Clerks in Police and Superior Courts, and Clerk of Supreme Judicial Court.

[C.] *County Taxes, Debts, and Criminal Costs, for Ten Years,
1849-58.*

5 years, 1849-53,	{	Aggregate of County Taxes, . . .	\$1,476,527 25
		Aggregate of County Debts incurred, . . .	497,874 21
		Two-thirds Criminal Costs, . . .	371,868 56
		Total, ...	\$2,346,270 02
5 years, 1853-58,	{	Aggregate of County Taxes, . . .	\$2,229,832 00
		Aggregate of County Debts incurred, . . .	338,684 78
		Two-thirds Criminal Costs, . . .	842,610 67
		Total, ...	\$3,411,127 45
10 years, 1849-58,	{	Aggregate of County Taxes, . . .	\$3,706,359 25
		Aggregate of County Debts incurred, . . .	836,558 99
		Two-thirds Criminal Costs, . . .	1,214,479 23
		Total, ...	\$5,757,397 47
Total Expenditures for 10 years, of Counties except Suffolk, ...			\$5,757,397 47
Add Expenditures of Suffolk County, for 10 years, . . .			1,436,442 97
Total County Expenditures for the whole State, . . .			\$7,193,840 44

EXPLANATORY NOTE—[C.]

The preceding tables, containing statements of certain County Expenditures and County Liabilities incurred during the last ten years, 1848 to 1858, have been prepared from returns furnished by the respective county treasurers to the secretary's office, in compliance with a request from that department. The Costs of Criminal Prosecutions, and the Expenses of the County of Suffolk, were derived in like manner, from official statements furnished for the purpose by the proper authorities.

The following extracts from the letters of the County Treasurers are explanatory of some deficiencies in their returns; a statement of the particular objects for which the County Debts were incurred, is also appended.

REMARKS, ACCOMPANYING RETURNS.

BARNSTABLE COUNTY.—“ Having only acted as Treasurer the last two years, and my predecessor not having handed over to me any of the records of his previous receipts and expenditures, I cannot forward them to your office.”

BRISTOL COUNTY.—“ The amount of debt at the close of 1852, I cannot accurately ascertain. From an examination of the books I am satisfied that the debt was not increased during the year 1853. I think, therefore, that you will be safe in calling the debt of 1852, the same as you find it December 31, 1853.”

MIDDLESEX COUNTY.—“ I do not find any report or account on file that will give the information you desire for the years 1848, '49.”

COUNTY DEBTS.

BERKSHIRE COUNTY.—“ The debt of the County was contracted for making Roads, &c.,	\$20,430 00
For addition and repairs to Court House and County buildings,	7,200 00
	\$27,630 00

ESSEX COUNTY.—“ Debts contracted some years since for the erection of the House of Correction in Ipswich, the Court House, Salem, the Jail and House of Correction, Lawrence, and in remodeling the Court House, Newburyport; and in some degree to meet the annual expenses of the County, the taxes granted therefor not having been equal to the expenditures.”

FRANKLIN COUNTY.—The County debt in 1857, was \$35,258.40, and the cost of new Jail, House of Correction, &c., \$32,168.47.

HAMPDEN COUNTY.—“ The indebtedness is on account of the construction of the House of Correction, and enlargement of the Court House.”

HAMPSHIRE COUNTY.—“ In 1851 originated a standing debt, contracted in building a new Jail and House of Correction.”

MIDDLESEX COUNTY.—Of the debt in 1857, \$129,200 was on account of the Jail in Lowell, \$15,000 for Court House, Concord, \$50,000 for Court House at Lowell, \$84,000 for Court House at Cambridge; the whole amounting to \$278,200.

NORFOLK COUNTY.—County debt “ contracted chiefly in the erection of new Jails and Houses of Correction.”

WORCESTER COUNTY.—Debt incurred “ for construction of new Court House, \$32,500,” “ for enlargement of House of Correction and repairs of Court House, \$30,800.” “ Construction of Jail and House of Correction at Fitchburg, \$24,500.” “ To supply the deficiency in the tax to meet the current expenses of the County, and towards the payment of principal and interest of the County debt, \$60,434.”

[D.] STATISTICS

OF JAILS AND HOUSES OF CORRECTION, AND COST OF
SUPPORTING CRIMINALS, IN THE SEVERAL COUNTIES,
FOR TEN YEARS, 1848-57; ALSO THE COST AND AN-
NUAL EXPENDITURES OF THE STATE ALMSHOUSES
AND STATE LUNATIC HOSPITALS.

[D.] *Certain Statistics concerning the Jails and Houses of Correction in the Commonwealth.*

COUNTY.	Year.	Whole number of Prisoners.	Average Number.	Average cost of board per week.	Total amount of Expenses.	Value of labor.
BARNSTABLE	1848*	—	—	—	—	—
	1849,	19	2	\$2 00	\$385 00	—
	1850,	23	3	12 00	353 10	—
	1851,	40	5	12 00	746 45	—
	1852,	26	4	12 00	575 22	—
	1853,	26	5	12 00	218 54†	—
	1854,	31	7	12 06	1,203 00	—
	1855,	46	8	12 12	1,421 69	—
	1856,	44	†	12 31	1,512 22	—
	1857,	45	8	12 80	1,275 10	—
Totals, . . .		300	42	\$2 14	\$7,690 32	\$
BERKSHIRE,	1848,	117	17	\$2 00	\$2,535 68	—
	1849,	172	26	1 87	3,316 00	\$718 00
	1850,	141	25	1 75	2,707 50	395 64
	1851,	159	29	1 75	3,187 00	409 00
	1852,	205	44	1 75	3,903 00	1,086 00
	1853,	198	34	1 75	4,350 00	775 00
	1854,	189	35	1 87	4,460 00	1,300 00
	1855,	217	35	2 06	4,675 00	—
	1856,	213	47	2 00	6,221 00	2,000 00
	1857,	177	41	2 00	4,248 00	3,000 00
Totals, . . .		1,788	333	\$1 88	\$39,603 18	\$9,683 64
BRISTOL, . . .	1848,	793	85	\$1 72	\$10,456 50	\$800 00
	1849,	763	83	1 75	11,450 00	700 00
	1850,	714	89	1 75	11,050 00	750 00
	1851,	770	96	1 75	11,469 00	800 00
	1852,	580	79	1 75	10,550 00	700 00
	1853,	728	80	1 75	10,254 00	700 00
	1854,	756	92	1 83	21,158 00	1,000 00
	1855,	948	123	1 91	15,848 18	900 00
	1856,	934	138	1 93	17,017 30	1,000 00
	1857,	1,292	169	1 83	18,580 69	1,898 17
Totals, . . .		8,278	1,034	\$1 80	\$137,833 67	\$9,248 17

* No return.

† Jail only.

‡ Returns unintelligible.

§ There seems to have been no labor performed by the prisoners of Barnstable County.

STATISTICS—*Continued.*

COUNTY.	Years.	Whole number of Prisoners.	Average Number.	Average cost of board per week.	Total amount of Expenses.	Value of labor.
DUKES, . . .	1848,	4	—	\$1 75	\$127 90	—
	1849,	1	—	—	33 61	—
	1850,	6	—	1 75	37 90	—
	1851,	10	—	1 75	31 57	—
	1852*	—	—	—	—	—
	1853,	7	—	1 75	59 75	—
	1854,	2	—	1 75	20 00	—
	1855,	3	—	1 75	44 50	—
	1856,	3	—	1 75	43 66	—
	1857,	1	—	1 75	90 93	—
Totals, . . .		37	—	\$1 75	\$489 82	—
ESSEX, . . .	1848,	439	50	\$1 70	\$2,054 83	\$1,400 00
	1849,	839	82	1 60	2,785 00	2,000 00
	1850,	1,094	111	1 70	3,160 22	3,000 00
	1851,	1,325	121	2 00	4,410 76	3,000 00
	1852,	1,497	102	1 43	1,220 67†	3,500 00
	1853,	1,556	129	1 75	862 57†	3,800 00
	1854,	1,964	139	2 00	1,500 37†	4,000 00
	1855,	1,763	160	1 82	5,715 91	3,500 00
	1856,	1,857	183	1 83	5,505 81	5,000 00
	1857,	1,712	205	1 65	32,176 07	7,706 68
Totals, . . .		14,046	1,282	\$1 75	\$59,392 21‡	\$36,906 68
FRANKLIN, . . .	1848,	71	—	\$2 00	\$933 85	—
	1849,	66	5	2 00	676 12	—
	1850,	55	6	2 12	891 16	—
	1851,	60	5	2 12	700 00	\$20 00
	1852,	54	5	2 00	700 00	—
	1853,	56	7	1 75	700 00	—
	1854,	55	6	1 75	825 00	100 00
	1855,	45	6	1 75	802 00	—
	1856,	50	9	1 75	§	—
	1857,	54	10	2 00	1,648 63	301 04
Totals, . . .		566	59	\$1 92	\$7,876 76	\$421 04

* No prisoners.

† No report of expenses, except from the Jail at Newburyport.

‡ With the exception of 1857, there has been no return of the expenses of either the Jail or the House of Correction at Ipswich for the ten years.

§ No return.

GOVERNOR'S ADDRESS.

STATISTICS—*Continued.*

COUNTIES.	Year.	Whole number of Prisoners.	Average number.	Average cost of board per week.	Total amount of Expenses.	Value of labor.
HAMPDEN,	1848,	145	40	\$1 75	\$4,148 40	\$1,187 00
	1849,	360	54	1 75	5,609 33	1,388 33
	1850,	465	56	1 75	5,921 16	818 90
	1851,	338	76	1 75	6,402 00	1,396 84
	1852,	347	56	1 75	7,656 57	942 00
	1853,	365	51	1 75	5,287 50	720 93
	1854,	479	70	1 75	6,736 46	1,433 73
	1855,	560	74	1 75	6,149 14	1,814 19
	1856,	515	75	1 75	7,964 29	1,561 43
	1857,	490	77	2 00	10,366 51	1,242 21
Totals, . . .		4,064	629	\$1 77	\$66,241 36	\$12,505 56
HAMPSHIRE,	1848*	—	—	—	—	—
	1849,	92	13	\$1 75	\$882 85	\$97 22
	1850,	150	13	1 75	1,889 40	380 23
	1851,	118	5	1 75	1,044 98	169 40
	1852,	115	15	1 75	1,519 13	15 00
	1853,	211	18	1 75	2,595 04	48 00
	1854,	187	39	1 75	3,852 53	576 41
	1855,	122	23	1 75	4,003 93	749 91
	1856,	178	6	1 75	4,331 76	706 42
	1857,	187	20	2 00	3,517 86	*
Totals, . . .		1,360	152	\$1 78	\$23,637 48	\$2,742 59
MIDDLESEX,	1848,	997	131	\$1 45	\$15,377 76	\$2,500 00
	1849,	1,141	94	1 42	16,782 80	2,800 00
	1850,	1,079	143	1 42	17,193 00	4,000 00
	1851,	1,164	136	1 38	16,070 00	4,200 00
	1852,	1,065	161	1 42	16,600 00	5,000 00
	1853,	1,410	177	1 42	17,700 00	5,000 00
	1854,	1,642	194	1 62	16,120 00	6,500 00
	1855,	1,625	186	1 69	16,150 00	6,500 00
	1856,	1,486	199	1 77	18,600 00	6,800 00
	1857,	1,656	246	1 87	19,974 00	7,500 00
Totals, . . .		13,265	1,667	\$1 55	\$170,567 56	\$50,800 00

* No return.

STATISTICS—Continued.

COUNTIES.	Year.	Whole number of Prisoners.	Average number.	Average cost of board, per week.	Total amount of Expenses.	Value of labor.
NANTUCKET,	1848,	16	—	\$1 67	\$65 00	\$45 00
	1849,	*16	1	—	205 15	105 70
	1850,	21	—	—	452 60	139 13
	1851,	13	—	—	299 27	82 00
	1852,	7	2	—	128 10	36 00
	1853,	19	—	—	221 85	40 00
	1854,	10	—	1 63	398 44	—
	1855,	15	4	—	186 65	5 00
	1856,	11	2	91	200 00	8 00
	1857,	10	—	2 00	72 19	—
Totals, . . .		138	9	\$1 55	\$2,229 25	\$160 83
NORFOLK, . . .	1848,	260	35	\$1 75	\$3,125 00	\$207 00
	1849,	274	40	1 33	3,350 00	190 00
	1850,	284	54	1 66	4,700 00	110 00
	1851,	345	43	†	†	20 00
	1852,	380	56	1 75	3,800 00	†
	1853,	395	57	1 75	†	†
	1854,	532	78	1 75	†	†
	1855,	529	77	1 75	†	†
	1856,	496	97	1 75	†	†
	1857,	506	105	1 75	10,946 69	1,192 38
Totals, . . .		4,001	642	\$1 69	\$25,921 69	\$1,719 38
PLYMOUTH, . . .	1848,	44	—	\$1 50	\$267 15	—
	1849,	66	—	1 50	1,014 12	—
	1850,	61	—	1 50	1,110 25	—
	1851,	71	—	1 50	1,199 06	—
	1852,	67	9	1 62	†	†
	1853,	107	18	1 75	†	†
	1854,	§	—	—	—	—
	1855,	121	25	2 00	†	\$1,600 00
	1856,	85	24	2 00	†	†
	1857,	184	52	2 00	6,195 96	2,247 00
Totals, . . .		806	128	\$1 71	\$9,786 54	\$3,847 00

* No return from the Jail.

† No return.

‡ Amount of expenses and value of labor not returned.

§ No return from either Jail or House of Correction.

GOVERNOR'S ADDRESS.

STATISTICS—*Continued.*

COUNTIES.	Year.	Whole number of Prisoners.	Average number.	Average cost of board, per week.	Total amount of Expenses.	Value of labor.
SUFFOLK,	1848,	4,819	356	\$2 33	\$31,254 89*	\$650 00
	1849,	5,698	424	1 97	43,505 54	7,488 10
	1850,	6,091	442	2 07	46,099 79	9,818 85
	1851,	6,673	519	1 93	47,166 81	15,953 00
	1852,	6,021	525	1 69	53,499 24	16,857 00
	1853,	8,317	595	1 71	62,583 06	19,883 00
	1854,	9,681	715	1 82	79,098 00	28,646 75
	1855,	10,796	954	1 93	57,413 66*	24,083 35
	1856,	7,628	672	1 98	49,951 20*	22,867 43
	1857,	5,852	673	2 11	78,507 51	26,019 23
Totals, . .	. .	71,576	5,875	\$1 95	\$549,079 70	\$172,266 71
WORCESTER,	1848,	424	43	\$1 40	\$6,771 68	\$2,218 55
	1849,	472	-	1 40	5,938 07	2,175 16
	1850,	477	49	1 40	6,604 25	2,900 00
	1851,	542	53	1 40	7,155 09	2,700 00
	1852,	511	55	1 40	7,200 00	2,500 00
	1853,	531	65	1 40	6,983 63	3,167 84
	1854,	732	82	1 40	12,945 00	5,200 00
	1855,	667	82	1 54	12,558 01	3,934 18
	1856,	855	109	1 54	13,300 00	5,625 00
	1857,	907	126	1 54	18,422 60	5,379 00
Totals, . .	. .	6,118	664	\$1 44	\$97,878 33	\$35,799 73

* House of Correction only.

[D.] RECAPITULATION—TEN YEARS' TABLE.

COUNTIES.	Whole number of Prisoners.	Average number.	Average cost of board per week.	Total amount of Expenses.	Value of Labor.
Barnstable, . .	300	42	\$2 14 $\frac{1}{2}$	\$7,690 32	—
Berkshire, . .	1,788	333	1 88	39,603 18	\$9,683 64
Bristol, . . .	8,278	1,034	1 79	137,833 67	9,248 17
Dukes, . . .	37	—	1 75	489 82	—
Essex, . . .	14,046	1,282	1 74	59,392 21	36,906 68
Franklin, . .	566	59	1 92	7,876 76	421 04
Hampden, . .	4,064	629	1 77	66,241 36	12,505 56
Hampshire, . .	1,360	152	1 78	23,637 48	2,742 59
Middlesex, . .	13,265	1,667	1 54	170,567 56	50,800 00
Nantucket, . .	138	9	1 55	2,229 25	468 03
Norfolk, . . .	4,001	642	1 69	25,921 69	1,719 38
Plymouth, . .	806	128	1 71	9,786 54	3,847 00
Suffolk, . . .	71,576	5,875	1 95	549,079 70	172,266 71
Worcester, . .	6,118	664	1 44	97,878 33	35,799 73
Totals, . .	126,343	12,516	\$1 77	\$1,198,227 87	\$336,408 53

NOTE.—The total amount of expenses is understood to be made up of the cost of clothing, fuel, board, medicine and medical attendance, instruction of prisoners, officers' salaries, and all other items of expenditure whatsoever.

[D.] COST OF SUPPORTING CRIMINALS.

COUNTIES.	Five Years, 1848-52.	Five Years, 1852-57.	Ten Years, 1848-57.	Increase in last Five Years.
Barnstable, ...	\$2,059 77	\$5,630 55*	\$7,690 32	\$3,580 78
Berkshire, ...	15,649 18	23,954 00	39,603 18	8,304 82
Bristol, ...	54,975 50	82,858 17	137,833 67	27,882 67
Dukes, ...	230 98	258 84	489 82	27 86
Essex, ...	13,631 48	45,760 73†	59,392 21	32,129 25
Franklin, ...	3,901 13	3,975 63†	7,876 76	74 50
Hampden, ...	29,737 46	36,503 90	66,241 36	6,763 44
Hampshire, ...	5,336 36	18,301 12	23,637 48	12,961 76
Middlesex, ...	82,023 56	88,544 00	170,567 56	6,520 44
Nantucket, ...	1,150 12	1,079 13	2,229 25	80 99††
Norfolk, ...	14,975 00§	10,946 69	25,921 69	4,028 31††
Plymouth, ...	3,590 58¶	6,195 96¶	9,786 54	2,605 38
Suffolk, ...	221,526 27	327,553 43**	549,079 70	106,027 16
Worcester, ...	33,669 09	64,209 24	97,878 33	30,540 15
Aggregate, ...	\$482,456 48	\$715,771 39	\$1,198,227 87	\$233,314 91

* Jail only, in 1852.

† No return in 1852-3-4, except from Newburyport Jail.

‡ No return in 1856.

§ No return in 1851.

|| No return in 1853-4-5-6.

¶ No return in 1852-3-4-5-6.

** House of Correction only, in 1848, 1855, and 1856.

†† Decrease.

[D.] *Aggregate Cost of State Almshouses and Lunatic Hospitals.*

<i>Cost of Institutions.</i>	
Bridgewater, ...	\$91,722 16
Tewksbury, ...	94,637 81
Monson, ...	94,560 85
Rainsford Island, ...	57,433 37
	\$338,354 19
<i>Expenses of supporting the same.</i>	
Whole amount, 1854, ...	\$80,900 61
1855, ...	172,558 80
1856, ...	173,573 53
1857, ...	166,056 58
1858, ...	159,902 33
	752,991 85
	\$1,091,346 04
<i>State Lunatic Hospitals.</i>	
Cost of building at Worcester, .	\$185,000 00
Taunton, .	214,000 00
Northampton, .	314,561 82
	\$713,561 82
<i>Cost of supporting Patients in same, including City of Boston Hospital.</i>	
Whole amount, 1854, ...	\$38,913 93
1855, ...	42,662 74
1856, ...	46,099 63
1857, ...	44,731 54
1858, ...	54,950 31
Add amount for Salary of Officers,	28,007 99
“ “ starting Hospitals,	11,785 08
	267,151 22
	980,713 04
Total, ...	\$2,072,059 08

[E.] *Number of other Commissions issued, not including Commissioners in other States.*

COUNTIES.	1849.	1850.	1851.	1852.	1853.	1854.	1855.	1856.	1857.	1858.	TOTALS.
Suffolk, ...	15	30	28	19	48	37	46	30	18	46	317
Essex, ...	25	31	34	23	26	27	32	28	17	44	287
Middlesex, ...	16	26	25	24	39	25	49	20	23	52	299
Worcester, ...	17	41	25	17	25	15	36	25	25	53	279
Hampshire, ...	7	17	5	11	11	5	14	13	10	14	107
Hampden, ...	6	18	17	13	11	8	24	11	14	17	139
Franklin, ...	3	8	7	3	7	7	8	16	6	17	82
Berkshire, ...	13	26	13	11	26	11	26	10	13	13	162
Norfolk, ...	3	26	11	17	18	15	33	15	13	32	183
Plymouth, ...	6	14	14	21	15	8	17	14	3	27	139
Bristol, ...	12	16	29	22	26	15	25	25	19	25	214
Barnstable, ...	11	24	15	16	16	12	27	11	9	21	162
Nantucket, ...	11	2	-	5	2	4	2	4	1	3	34
Dukes, ...	45	7	6	6	4	-	13	6	6	4	97
Totals, ...	190	286	229	208	274	189	352	228	177	368	2,501

[F.] STATEMENT

Of the Condition of 174 Banks in Massachusetts on the last Saturday of October, being the 30th, 1858, at 7 o'clock, P. M.

DUE FROM THE BANKS.	
1. Capital Stock, ...	\$61,819,825 00
2. Amount of bills in circulation of five dollars and upwards, ...	16,712,943 50
3. Amount of bills in circulation of a smaller denomination than five dollars, ...	4,126,494 50
4. Net profits on hand, ...	6,031,830 31
5. Balances due to other banks, ...	7,654,234 85
6. Cash deposited, including all sums whatsoever due from the banks, not bearing interest, the bills in circulation, profits and balances due to other banks excepted, ...	30,538,153 20
7. Cash deposited bearing interest, ...	1,537,853 16
8. Total amount due from the banks, ...	\$128,421,334 52
RESOURCES OF THE BANKS.	
9. Gold, Silver, and other coined metals in the banking houses, ...	\$11,112,715 72
10. Real Estate, ...	1,584,884 87
11. Bills of banks in this and of the other New England States, ...	4,933,427 94
12. Balances due from other banks, ...	6,366,721 41
13. Amount of balances in other banks to be applied to the redemption of bills, and not bearing interest,*	2,820,524 36
14. Amount of all debts due, including Notes, Bills of Exchange, and all Stocks, and funded debts of every description, excepting the balances due from other banks, ...	101,602,947 24
15. Total amount of the Resources of the banks, ...	\$128,421,221 54
16. Amount of dividends of 167 banks in April, ...	\$2,195,325 71
17. Amount of dividends of 164 banks in October, ...	2,134,827 00
18. Amount of reserved profits at the time of declaring the last dividends, ...	5,413,667 13
19. Amount of debts due to the banks, secured by a pledge on their stock, ...	756,264 85
20. Amounts of debts due and not paid, and considered doubtful, ...	1,022,631 29

* This refers only to banks out of Boston.

[F.] *Poll Taxes in the different States of the Union.*

STATES.	Poll Tax.	Amount of Poll Tax.	Whether assessed upon Minors.
Maine, ...	Yes.	Not to exceed \$1, exclusive of highway tax.	No.
Rhode Island, . . .	No.	A Registry Tax of \$1, applied to Schools.	
New Hampshire, . .	Yes.	\$1 20.	No.
Connecticut, ...	"	Set in list at \$10.	"
Vermont, ...	"	\$2; equal to \$2 of property.	"
New York, ...	No.	Taxes assessed upon property alone.	"
New Jersey, ...	Yes.	\$0 50.	"
Pennsylvania, . . .	No.	No distinctive poll tax.	
Delaware, ...			
Maryland, ...	No.		
Virginia, ...	Yes.	\$0 80.	No.
North Carolina, . .	"	\$0 50.	"
South Carolina, . .	No.		
Georgia, ...	Yes.	\$0 25.	No.
Kentucky, ...	No State Poll Tax.	County poll tax, about \$1.40.	"
Tennessee, ...	Yes.	\$0 25.	"
Ohio, ...	No.		
Louisiana, ...			
Mississippi, ...	Yes.	Free white polls, 40c. each.	per cap. tax, 50c. military schools.
Indiana, ...	"	\$0 50.	No.
Illinois, ...	No.		
Alabama, ...	Yes.	\$0 50 on white males.	No.
Missouri, ...			
Michigan, ...			
Florida, ...			
Arkansas, ...			
Iowa, ...	Yes.	\$0 50.	No.
Wisconsin, ...	"	\$1 00.	"
Texas, ...			
California, ...			
Minnesota, ...	No.		

[G.]—*Official Estimates concerning the amount of Specie
in the United States.*

MINT OF THE UNITED STATES, PHILADELPHIA, }
December 11, 1858. }

DEAR SIR,—As a convenient mode of responding to your letter of the 8th inst., I send you inclosed, a copy of a part of a communication I made to the Secretary of the Treasury on the 7th of October, 1856. In reference to the amount of gold and silver coin in the United States, the Secretary in his Report on the Finances for the year ending June 30, 1856, (see page 28 of the Report,) says: “the Director of the Mint estimates the gold and silver remaining in the country at \$200,000,000, on the data stated in his communication accompanying this Report; and the Department at \$250,000,000, upon the data, and for the reasons stated in my last Report.” But by some singular mistake the communication to which he refers was not printed with the Report. I therefore send it to you that you may see the data upon which I founded the conjecture, that the sum of \$200,000,000 in gold and silver coin was, in 1856, in this country.

Whatever opinion may be formed as to the reliability of the data upon which my estimate is founded, I have every reason to believe that it is a reasonable one, and furnishes something of a starting point. Since that time the coinage operations of the Mints and the Assay Office furnish us with useful data.

The gold that is exported is that which is made into bars. This is so, not only because they are more convenient for that purpose than coin, but for a greater reason, namely, they cost the owners of bullion less, inasmuch as there is a coinage charge of the half of one per cent., which does not apply to bars; hence I infer that the chief part of the gold which goes abroad is in fine bars, and that which is coined, remains in the country. Some portion of the coinage is no doubt exported; to meet this, in part, at least, I omit the gold coinage from July to December, 1856, in the statement which follows.

Besides the gold coinage, we have remaining in the country all the silver coins struck since my estimate was made.

We may then make the statement as follows:—

Gold coinage, January to June, 1857,	.	.	\$15,811,000	00
“ “ June, 1857, to June, 1858,	.	.	30,253,000	00
Silver “ June to December, 1856,	.	.	1,335,000	00
“ “ January to June, 1857,	.	.	1,477,000	00
“ “ June, 1857, to June, 1858,	.	.	9,517,000	00
Estimate made in October, 1856,	.	.	200,000,000	00

Estimated amount of gold and silver in the United

States July 1, 1858, ... \$258,393,000 00

It gives me pleasure to respond to your request, especially as I learn from your letter, that your "object is to contribute as far as you can to the substitution of a solid currency for that of paper, as a common medium of exchange."

I have the honor to be, with great respect,

Your obedient servant,

JAMES ROSS SNOWDEN,

Director of the Mint.

His Excellency NATH'L P. BANKS,

Governor of Massachusetts.

Extract from a letter of Hon. JAMES ROSS SNOWDEN, Director of the Mint, to the Secretary of the Treasury, dated Philadelphia, October 7, 1856.

"I now notice that part of the resolution of the House which is in the following words:—'with such suggestions to prevent and restrain the export of gold and silver, as may be deemed relevant to the establishment of a sound currency, and to retire the small denominations of bank notes as fast as gold and silver can be obtained and substituted.'

The evils of a small note circulation are too apparent to need argument or elucidation. With a sound currency, so far as relates to national affairs—thanks to the Independent Treasury law—we have the most diversified circulation of any country. By virtue of State laws, nearly fourteen hundred banks are authorized to issue paper notes; many of them of the low denomination of one dollar. With a circulation of near two hundred millions of notes, it may readily be seen why the constitutional provisions in regard to coin and money have, in a great measure, failed to give the people a sound and wholesome circulation. And this too notwithstanding the mints have issued five hundred millions of dollars in coin. But the difficulty consists in controlling the State legislation on this subject. How far Congress possesses the power to remedy the evil I am not prepared to say; the only remedy which has ever been mentioned so far as I have noticed, is one suggested by Mr. Gallatin, who, in view of the taxation power vested in Congress, proposed to lay a tax on small notes. Whoever can suggest and carry into effect a proper constitutional remedy, will be entitled to the lasting gratitude of his country. No apprehension need be entertained as to supplying the place of the notes when they are withdrawn. The moment they are withdrawn gold and silver will take their place, and without the slightest injurious effect upon the commercial and industrial pursuits of the country. Large amounts of coin, now lying idle and withheld from circulation on account of small notes, would immediately in a great measure, supply the vacancy. Besides, the mints can furnish in abundant issues any additional amount that may be required.

It might be well to consider, on the subject of the exportation of gold, how far the discrimination against the coinage of bullion and in

favor of fine bars, operates to favor the exportation. By the existing laws, a charge of the half of one per cent. is made for coinage, but there is no such charge for manufacturing fine bars. Hence there is an inducement to the owners of bullion to have their returns in fine bars rather than in coin. These bars are only used for exportation, and thus the government offers greater inducement for the manufacture of gold for exportation than for coinage. As gold will go wherever it is demanded, and no legislation can, or ought to interfere with its exportation, any more than it would interpose obstacles to the exportation of corn or cotton or any other production of the soil, or subsoil. Yet it would seem to be the interest of the country to avoid this discrimination in favor of bars; and to require the same charges upon bullion put in that form for exportation, as when manufactured into coin for home circulation.

I have, as requested, examined the estimates you presented in your last Annual Report on the finances, and in your last Bank Report, as to the amount of gold and silver remaining in the country. Our efforts to arrive at any conclusions on this point are at best but mere conjectures. I have however fully considered the point in question, and by two different modes have arrived at the conjecture that the amount may be stated at \$200,000,000. As a curious coincidence as to results, and to exhibit the bases of my calculations, I will venture to present them to you somewhat in detail.

I. An estimate of the amount of coin in the United States based upon the number of inhabitants.

Population of the United States, say—		25,000,000
Taxables, say—		5,000,000

Of these about four-fifths are workmen, or others receiving from \$300 to \$500 per annum, and may be supposed to hold on an average \$5 at a time: 4 millions at \$5, . . .	\$20,000,000 00
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The remaining one-fifth may be supposed to hold, on an average, say \$100, ...	100,000,000 00
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The banks hold, ...	54,000,000 00
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Other institutions than banks, (one-third as much,)	18,000,000 00
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Bankers have a capital of \$118,000,000, and may be supposed to hold 10 per cent. of their capital at a time, say—	12,000,000 00
--	---------------

\$204,000,000 00

II. An estimate of gold and silver coin in the United States based upon statistics of coinage.

It may at least be interesting to look at this subject from another point of view than that presented in the former estimate.

We know what the mint and its branches have coined; we know what kind of coins have been subject to exportation, and what likely to remain in the country; and we know the general character of our specie currency.

1. We have undoubtedly the whole silver coinage executed under the law of 1853.

2. There is still a quantity of the previous silver issue, which from the rate at which it now finds its way in small deposits to the mint, can hardly exceed \$2,000,000.

3. The old Spanish and Mexican fractional silver coins cannot be less than \$3,000,000.

4. The entire coinage of gold dollars; a coin not liable to exportation, and not much exposed to remelting by goldsmiths.

5. The entire coinage of quarter eagles, since the first change of standard, in 1833, inclusive.

6. The entire coinage of half eagles, since the commencement of the coinage of eagles, in 1838. Some of these have no doubt gone out of the country, but those that remain, of prior date, may be a fair set-off.

7. All the three-dollar pieces.

8. The entire coinage of eagles, since the double eagle began to be largely coined in 1850. The same remark for counterbalance of errors, may be repeated here as under the sixth item.

9. The entire coinage of double eagles, since the year 1853, when commercial bars began to be largely issued. This item also is subject to the same qualification as just referred to.

As to the quantity of sovereigns, Mexican dollars, and five-franc pieces, floating through the country and generally finding their way to the mint, it is not large, and may hardly be an offset to what has been consumed out of the above items, for gold and silver manufactures.

Nothing more can fairly be added to this catalogue; if there is an error it must be in overestimate. We know that the whole United States coinage of gold, prior to 1833, and the whole silver coinage prior to 1853, (save perhaps \$2,000,000, as already allowed,) have been recoined here or elsewhere, or disappeared from the country. We know that the exportation of gold has always kept close upon us, at least so far as first to demand our larger coins, and then our commercial bars. These considerations kept in view, we have some reasonable data for making an estimate from the printed tables of coinage.

It should be added in regard to the first half of the present year, (1856,) that the gold coinage of San Francisco is not included, as it mainly took the place of commercial bars to that extent, and was no doubt used for exportation.

Statement in round numbers, agreeably to the annexed data, to the end of 1855.

1. Silver coinage under act of 1853, . . .	\$20,800,000 00
2. Former issue of silver remaining, . . .	2,000,000 00
3. Old Spanish and Mexican fractions, . . .	3,000,000 00
4. Gold dollars, ...	14,150,000 00
5. Quarter eagles, since 1833, ...	19,900,000 00
6. Half eagles, since 1838, ...	39,450,000 00
7. Three-dollar pieces, ...	650,000 00
8. Eagles, since 1850, ...	17,000,000 00
9. Double eagles, since 1853, ...	69,300,000 00
	\$186,250,000 00

Add for the first six months of 1856 the gold coin-	
age of all the mints except San Francisco,	\$10,125,000 00
For the same period all the silver coinage,	3,800,000 00
	\$200,175,000 00

In round figures, \$200,000,000.

As before mentioned, these estimates are at best but conjectures, but I incline to the opinion that the aggregate of gold and silver coins remaining in the United States does not exceed two hundred millions of dollars ; and yet I may be far from the true amount—and your own estimate at two hundred and fifty millions be nearer the mark.”

From the Secretary of the United States Treasury.

TREASURY DEPARTMENT, Dec. 11, 1858.

SIR,—I have the honor to acknowledge the receipt of your letter of December 8th, in which you ask information as to the “estimated amount of gold and silver coin in the United States.”

As the best answer I can give, I send you the following documents :

1st. The Report on the Finances for 1854–5. On page fifty-one commences a table, in which my predecessor, Mr. Guthrie, estimated the amount in 1854, at two hundred and fifty million dollars. The notes to the table will probably interest you.

2d. The Report on the Finances for 1855–6. On page twenty-nine you will find reference to an estimate by the Director of the Mint, making the whole amount two hundred million.

3d. The Report on the Finances for 1856–7. On page twenty-two you will find that I estimated the whole amount of specie in the United States at two hundred and sixty million dollars.

In the volumes now sent, you will find various other documents having a bearing on the subject of your question.

My estimate was from returns, the latest of which were dated June 30, 1857.

The Report on the Finances for the present year, is now in the hands of the printer. As soon as printed, which will possibly be in the course of a week, I will send you a copy. In it you will find detailed accounts of the amount of gold and silver received at the Mint and its branches and also of the amount imported from and exported to foreign countries, from July 1, 1857, to June 30, 1858.

Very respectfully,

HOWELL COBB,

Secretary of the Treasury.

To His Excellency N. P. BANKS,
Governor of Massachusetts.

[H.] INDIAN TRIBES OF MASSACHUSETTS.

TROY INDIANS.

TAUNTON, December 16, 1858.

To His Excellency NATHANIEL P. BANKS, *Governor, &c.*:

The territory of this tribe consists of 190 acres, located near Fall River. The tribe numbers 59, of whom 36 are non-residents. There is little variation in this number, the births and deaths being about equal.

Their land is mostly covered with wood, and held in common. It furnishes sufficient fuel for their wants, and enough more to yield some \$75 annually. Some of it is let out for pasture, and a very small part cultivated. There are very few among them showing decided marks of Indian origin. They appear quite healthy—are neat in their habits, and will not suffer in comparison with whites of the same class.

They are shrewd, intelligent, and very tenacious of their rights. Their children attend the public schools, and one of them the High School, in Fall River.

In summer they attend the Christian Union Church, at North Westport, where the Commonwealth has purchased three pews for their use. Their morals are better than might be expected, and two or three only are habitual drinkers. Their worst trait is excessive indolence. The influence of some religious teacher would be productive of great good. Most of them live by laboring as house servants, porters, sea-farers, &c. On the Reservation they make baskets, and do a little farming. Their only stock is one horse and one cow.

The State appropriation for their support, this year, is \$400, 20 per cent. less than heretofore. From the sale of wood \$75 has been realized, and \$25 from pasture rent—in all \$500, all of which will be expended before 1st January, 1859. Seven-eighths of this is expended for food and medicines, for the aged and sick.

Their guardian is faithful and competent, and they are much attached to him. The condition of the tribe has greatly improved within the last ten years, and much, if not all of this, is due to his efforts in their behalf.

H. B. WHEELWRIGHT.

HASSANAMISCO INDIANS.

BOSTON, December 30, 1858.

To His Excellency NATHANIEL P. BANKS, *Governor, &c.*:

SIR,—I have the honor to state, that I have visited the town of Grafton, and find the whole number of the Grafton tribe of Hassanamisco Indians is twenty-six, of whom

- 7 live in the town of Grafton.
 10 " city of Worcester.
 2 " town of Princeton.
 2 " town of Sturbridge.
 5 have no fixed abode or whose place of residence is unknown.

Of these, eight are over forty years of age; eight between twenty and forty, and ten are under twenty years. But four families draw aid from the State.

The family in Grafton, consisting of parents and with children, live on an estate, consisting of a small old house and barn, and about four acres of land; they also own a cow. A family of ten (the parents being very old people, and the youngest child eighteen,) resides in Worcester, where last year the guardian, Colonel Bigelow, of Grafton, bought them a small estate from the proceeds of the sale of certain parcels of land in Grafton belonging to the tribe. This was done with the consent of the judge of probate for Worcester County.

The family in Princeton, consisting of two persons, are respectable, industrious, and are possessed of some property. They are generally industrious, and comparatively free from vices; one of the family in Worcester is a barber in that city.

Under the original forty grants to the first settlers of the town of Grafton, the Indians are entitled to pew accommodations in the church, and also to all the rights in the public schools of the town that are enjoyed by the whites, and are exempt from church or other taxes; and persons are now living who recollect when the wall-pews in the old church were occupied wholly by Indians, while the body of the house was occupied by the whites.

A few years since the tribe lost about one thousand dollars, through the failure of one of their trustees, and last year they petitioned the legislature to be reimbursed by the State.

It is the opinion of Colonel Bigelow, their guardian, and other gentlemen, that a little extra assistance afforded them at this time, to repair their buildings, &c., would be of permanent service to them and a good investment for the Commonwealth.

I remain, Sir, very faithfully yours,

EDWARD HAMILTON.

CHAPPEQUIDDIC, CHRISTIANTOWN AND GAY HEAD INDIANS.

EDGARTOWN, December 20, 1858.

H. B. WHEELWRIGHT, Esq., *Chairman Alien Commissioners:*

DEAR SIR,—I received your letter of the 15th inst., last Saturday evening, and hasten to reply, if by any means I can contribute any thing interesting to yourself or his excellency governor Banks.

From a large experience of many years, I have reason to believe that the relations of the State and the Indians, each to the other, is less understood than any other subject, by legislators. Almost numberless special Acts have been passed relating to the Indians since 1633, when it was ordered, "That no person whatsoever shall buy any land of any Indian, without leave from the Court."

See Records of the Colony of Massachusetts Bay, vol. 1, p. 112.

Ever since, the State has assumed to be the guardian of the Indians, having adopted them as wards; consequently, they cannot be State paupers technically.

Permit me to refer you and his excellency to the Report (House Document No. 46, of the year 1849) of the Commissioners, (F. W. Bird, Whiting Griswold, Cyrus Weeks,) relating to the condition of the Indians in Massachusetts. It contains much valuable and reliable information touching the questions proposed in your letter.

The present status of the Chappequiddie, Christiantown and Gay Head Indians, as to their number, locality and land, is mainly as stated in said Report. I cannot give any more correct information at this time. Said Report contains a correct statement of the physical, intellectual, moral and religious condition, and the state of education among the Indians at that time; but some important changes, have taken place especially at Gay Head.

With the aid of the Society for Propagating the Gospel, &c., who appropriated six hundred dollars, they have built a neat and comfortable parsonage house, and have erected a substantial fence around the lot. The society have, for the last four or five years appropriated annually, two hundred dollars for the support of the ministry. With this aid, they have supported a minister most of the time. Their meetings are well attended, and their intellectual, moral and religious development has progressed beyond the expectation of their warmest friends.

The Indians of Gay Head are truly a temperate people. Their education is improving, and most of the parents feel a deep interest in the education and welfare of their children. They receive from the State for support of schools, annually, one hundred and fifty dollars, and for the support of an aged pauper, one dollar a week.

Christiantown and Chappequiddie receive each for the support of their schools, ninety-seven dollars.

Since the Commissioners' Report, the Indian lands at Chappequiddie have been fenced off, after having been divided between the different families.

The mill at Gay Head was a great blessing to the people of Gay Head, but unfortunately for them it was destroyed some two years ago, and they have not since been able to build another.

The Indians generally feel deeply their social disabilities and inferiority; not that they are in fact inferior, but that circumstances have made them so; circumstances beyond their control.

Their style of living is the same as the whites. They are generally industrious, and some of them, especially the Chappequiddie and Gay Head, work most diligently.

By looking on the map of Barnstable, Dukes County and Nantucket, you may see very plainly the locality of Gay Head.

I should be happy to be able to present this subject more fully and plainly, but I must plead the infirmities of age, and again refer you and his excellency to House Document, No. 46, of the year 1849.

There is no provision for the distribution of the laws of the State among the Indians. It seems to me that the State should see to it, that the Indians should be provided with the laws.

I am, Dear Sir,

Very respectfully and truly, yours, &c.,

LEAVITT THAXTER.

NATICK INDIANS.

BOSTON, January 1, 1859.

To His Excellency NATHANIEL P. BANKS, *Governor*. &c.

SIR,—The Natick Indians were originally collected by Rev. John Elliott from different tribes, and have been under the care of the Commonwealth since his time; they are now represented by one woman who is married to a white man; they have two children of from seven to ten years of age. This family are respectable and industrious.

There is also one woman who has a husband and five children, who claims descent from this tribe or body of Indians. A part of the children of this family are out at service. This woman presents sufficient claim to entitle her to some assistance from the Agent, (the Hon. Mr. Bacon, of Natick,) although the husband is dissolute and improvident.

There are also some persons in Framingham who claim descent from these Natick Indians, but as no title can be traced sufficient to warrant the agent in affording aid to them, he has refrained from doing so.

Very respectfully yours,

EDWARD HAMILTON.

DUDLEY INDIANS.

To His Excellency NATHANIEL P. BANKS, *Governor*, &c.

DEAR SIR,—I returned from Webster this morning. I found that the Dudley Indians consisted of twelve in the house at Webster, three in Oxford, two in Spencer, four in Thompson, Connecticut, six in Worcester, of whom ten are children, as follows:—two in Webster, one in Oxford, three in Thompson, Connecticut, four in Worcester.

They appear, and have the reputation of being generally inoffensive and industrious. There is however one vicious man, who is now confined in the jail at Thompson, Connecticut, for stabbing a man. His term of punishment is nearly out.

They reside in a new house divided into five tenements, so that each family has a tenement. Attached to it is about one acre of land, which is covered with a growth of "scrub oak." The soil is good but very rocky. The overseer desires an appropriation of \$300 to build a wall around the premises, and thus clear the land, and to erect a wood shed for the house; this is much needed. Originally there was an appropriation of \$3,000 made to build this house, but however wonderful, it is nevertheless true that but \$1,500 was used; and the people there feel they do not ask what is unreasonable under the circumstances, when they request that \$300 may be appropriated for the above purposes. Six of the Indians residing at Webster are somewhat advanced; the youngest, a girl, is about nine years of age. There appears to be no school, and with two exceptions the children are too old to attend if there were one. The appearance of the interior of the tenements was neat and orderly. Two old men were braiding baskets, one blind man had gone to the village to saw wood. Two of the young men work in shoe-shops, and their mother takes in washing. On the whole their appearance was very satisfactory to me.

Very respectfully yours,

EDWARD HAMILTON.

FINANCIAL STATEMENT.

Dudley Tribe, Webster.

Support 11 months,	.	.	.	.	.	\$500	00
Guardian's salary,	.	.	.	.	.	83	33
						<u> </u>	\$583 33

Troy Tribe, Fall River.

Support, 12 months,	.	.	.	.	.	\$400	00
Guardian's salary,	.	.	.	.	.	50	00
						<u> </u>	450 00

Marshpee Tribe.

Support,	.	.	.	.	.	.	100 00
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Punkapog Tribe, Canton.

Pensions,	.	.	.	.	.	\$202	00
Guardian's salary,	.	.	.	.	.	40	00
						<u> </u>	242 00

Chappequiddie and Christiantown Tribe, Dukes County.

Guardian's salary,	.	.	.	.	.	\$150	00
Pension,	.	.	.	.	.	50	00
						<u> </u>	200 00

GOVERNOR'S ADDRESS.

Hassannamessett Tribe.

Special grant,		\$200 00
Pension,		50 00
		\$250 00

Gay Head Tribe, Dukes County.

Pension,		104 00
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Town of Chilmark.

Special grant, sickness of an Indian,		101 94
		\$2,031 27
Probable excess in Dudley and Troy,		170 00
		\$2,201 27

Payments from income of Indian School Fund:—

Marshpee,		\$60 00
Chappequiddic and Christiantown,		36 00
Gay Head,		36 00
Herring Pond,		18 00
		\$150 00

Payments from income of Massachusetts School Fund:—

Marshpee,		\$265 00
Chappequiddic and Christiantown,		164 00
Gay Head,		120 00
Herring Pond,		80 00
		\$629 00

SPECIAL MESSAGES.

THE FOLLOWING SPECIAL COMMUNICATIONS WERE MADE BY HIS
EXCELLENCY THE GOVERNOR, TO THE LEGISLATURE, DURING
THE SESSION ENDING APRIL SIXTH.

[To the House of Representatives, January 11.]

I have the honor to transmit to you, for the use of the legislature, printed copies of reports relating to public institutions, made in pursuance of law to the governor and council, accompanied by a statement of titles thereof.

[To the House of Representatives, January 13.]

The congress of the United States, by an Act approved June 12, 1858, appropriated the sum of \$9,215.13 for the reimbursement of expenditures incurred by this State in connection with the State of Maine, to enable the government of the United States to fulfil treaty stipulations made by the treaty of Washington, for the settlement of the north-eastern boundary April 9, 1842. From a report of the fifth auditor, and the certificate of the comptroller of the treasury department to whom the subject was referred, which papers are herewith transmitted, it appears that the appropriation is retained in the treasury until the legislature of Massachusetts shall specify the person or persons to whom it may be paid. I recommend therefore, that the treasurer of the Commonwealth, or such other person as may be deemed proper, be authorized to receive and acknowledge the receipt of the sum stated in behalf of the Commonwealth.

I transmit, also, the account of Samuel L. Harris, Esq., of Maine, who by letters of appointment dated May 10, 1844, and May 7, 1846, has been charged with the prosecution of this claim, for expenses incurred and paid by him, and also for his services as agent of the Commonwealth, together with other documents connected with the origin and payment of the claim, and I ask the early attention of the legislature thereto.

I have also the honor to transmit a letter of his excellency the governor of the State of Maine, dated December 2, 1858, with information of the appointment of an agent to look after its interests, in the claim upon the general government, for advances of money during the late war with Great Britain, and inviting the co-operation of this State, which has a similar interest, in efforts to induce a favorable consideration of these undisputed but long deferred claims. In the belief that the consideration of this subject is advisable, I deem it proper to present to the legislature briefly the historical facts connected with this claim.

The States of Massachusetts and Maine petition congress for reimbursement of money paid by Massachusetts, then embracing territory since erected into a separate state, for the protection and defence of the coast and territory of the United States during the late war with Great Britain.

The Hon. J. R. Poinsett, of South Carolina, late secretary of war, to whom the claim was referred by resolutions of congress hereinafter set forth, in a detailed report prepared by him pursuant to instructions of those resolutions, says that, "during this war, Massachusetts was exposed to the attacks of a ruthless enemy, hovering along her defenceless maritime frontier, assailing it sometimes to the serious injury of the people, and keeping the whole country in a constant state of well-founded alarm."

The present claim is founded upon a petition for repayment of money actually expended and paid by the State, under these circumstances, in defence of her territory, in calling out her militia and providing supplies for its support, and in erection of necessary works of defence, required upon actual invasion or well-founded apprehension of invasion.

In the settlement of this claim, the State has desired only, that she may have the benefit of well established principles of public justice, which have been applied by the general government to the settlement of similar claims of other States, for the like services—every one of which have been long since adjusted and paid.

A brief view of the present condition of this claim is presented in the following statement of facts connected with its history.

The original claim for services, disbursements and expenditures, during the war, was \$843,349.60. This sum, \$843,349.60, constituted a debt of the State, which was paid in full in 1817, and upon which interest was also paid to the amount of \$117,092.66, as appears from a statement of the treasurer of the Commonwealth, herewith transmitted.

By a resolution of 1826, it was referred to the secretary of war, by whom it was committed for examination to the third auditor of the treasury department.

Applying strict rules of evidence to the different items of claim, in matters of form as of substance, the auditor, Peter Hagner, Esq., found to be admissible under the rules and requirements of the department the sum of \$430,748.26 ; and inadmissible under the same rules,—unless under special sanction of the secretary of war,—the sum of \$412,601.34.

The secretary of war transmitted this report to congress without exercise of his power of revision, which was deemed essential in this case by those to whom Massachusetts had intrusted her interests, and which it is believed, had been exercised in behalf of similar claims of some other States.

The deficiency of evidence necessary to sustain many of the items of claim, deemed inadmissible under the rules of the department, had in some measure been occasioned by want of correct information as to the nature of those rules and requirements, on the part of the agents of the State, by whom many of the vouchers had been prepared. After a lapse of twenty years this deficiency could not be wholly supplied.

In 1830 an appropriation was made for the payment of so much as should be found admissible by the officers of the government, according to the terms of the act ; and the sum of \$430,748.26, the same amount admitted upon the report of the auditor, was paid to the State, of which one-third was received by the State of Maine. The next act upon this subject was a resolve of the house of representatives, passed February 24, 1832, in the words following, viz. :

“Resolved, That the secretary of war be and he is hereby instructed to examine the claim of the State of Massachusetts for disbursements for military purposes during the late war with Great Britain, according to the rules and cases set forth in an act of congress, approved May 31, 1830 ; and if any further sum be found to be due the claimant by such examination, to report the same to the house.”

No action was had by the secretary of war under this resolution. The following joint resolution relaxing rules of evidence and admitting further proof on the part of the State, was approved May 14, 1836, and these resolutions, with the act of 1830, became the law of the department upon this subject.

"A resolution to authorize the secretary to receive *additional* evidence in support of the claims of Massachusetts and other States of the United States for services, disbursements, &c., during the late war.

"*Resolved, &c.*, That the secretary of war in preparing his report pursuant to a resolve of the house of representatives, agreed to on the 24th of February, 1832, be and he hereby is authorized, without regard to existing proofs and requirements, to receive such evidence as is on file, *and any further proofs which may be offered* tending to establish the validity of the claims of Massachusetts upon the United States, or any part thereof, for services, disbursements and expenditures, during the late war with Great Britain. And in all cases where such evidence shall, in his judgment, prove the truth of the items of said claim, or any part thereof, to act on the same in like manner as if the proof consisted of such vouchers and evidence as is required by existing rules and requirements touching the allowance of such claims; and that in the settlement of the claims of other States of the United States for services, disbursements and expenditures, during the late war with Great Britain, the same kind of evidence, vouchers and proof, shall be received as is herein provided for in relation to the claims of Massachusetts, the validity of which *shall be in like manner determined and acted upon by the secretary of war*. Approved May 14, 1836."—*U. S. Laws*, vol. 6.

Pursuant to the instructions of these resolutions, the secretary of war, Mr. Poinsett, made an elaborate and careful examination of the claims, receiving such further evidence as could then be furnished by the State of Massachusetts, and the result of his deliberations he presented to the house of representatives in his report of December 23, 1837—Ex. Doc. 2d vol. 1837-8, No. 45—as follows, viz.:

DEPARTMENT OF WAR, *December 23, 1837.*

SIR,—In compliance with a resolution of the house of representatives of March, 1836, I have examined the claims of the State of Massachusetts, for military services and expenditures during the late war with Great Britain, and have now the honor to report:

The original amount of these claims was \$843,349.60, which by a payment of \$11,000 in 1817, and one of \$419,748.26, in 1831, was reduced to \$412,601.34, which is still claimed. Of this sum, it appears, upon applying the same principles which have governed this department in the settlement of similar claims made by other States, there will be due \$272,716.14, of which \$45,539.66 being for arms and accoutrements purchased by the State, arms, &c., to the value of that amount must be charged to the State, and be withheld from its quota under the act of 1808, for arming and equipping the militia; "and all warlike stores remaining in the State, which are paid for by the general government must be delivered up to the possession and use of the United States."

Very respectfully, your most obedient servant,

J. R. POINSETT,

Hon. JAMES K. POLK, *Speaker House of Representatives.*

It is clear, from the terms of the resolution of February 24, 1832, and the joint resolution of May, 1836, admitting additional evidence, and relaxing in some degree the stringency of the rules of the department, both of which are herein set forth at length, that the secretary of war followed implicitly the instructions of the resolutions, made by act of congress the law of the department in regard to this and similar claims of other States.

Such was the opinion of the distinguished secretary of war, Mr. Poinsett, as appears in his answer to a letter of inquiry on the part of the members of the house for the State of Massachusetts, whether any further action of the department was required under the resolutions upon the subject of this long deferred claim. After an elaborate examination of the whole question, he unhesitatingly expresses the opinion that the resolutions devolved upon him "the duty of examination, and *directed the manner in which it should be made*; and FULFILLING THAT OBLIGATION, he reported to congress the result."

The amount due the States of Massachusetts and Maine having thus been determined by law, and adjudged by those in no wise disposed to encourage or acknowledge unjust or illegal pretensions on the part of these States, and as all such claims on the part of other States have long since been adjusted and paid, I cannot doubt that ultimately their rights will be acknowledged. However long this result may be deferred, it becomes us to use all proper means to obtain a settlement in accordance with existing laws, and upon principles applied to similar claims of other States.

[To the House of Representatives, January 14.]

I have the honor to transmit to the house of representatives, for the use of the legislature, an exemplified copy of the will of the late Isaac B. Woodbury, of the State of Connecticut, in which a conditional bequest is made in trust in favor of the Commonwealth of Massachusetts, for the purpose of establishing and maintaining a school for musical instruction.

I have also the honor to communicate to the house of representatives, a letter from Rufus Putman, Esq., of Danvers, in this State, who is executor of the will referred to, and the trustee named therein.

[To the Senate, January 14.]

I have the honor to transmit to the senate, for the use of the legislature, a copy of resolutions passed by the legislature

of the State of South Carolina, and transmitted to this department by his excellency, the governor of that State, in approval of the present light house system of the United States.

I have also the honor to transmit to the senate, for the use of the legislature, an estimate of the probable cost of filling the street and that portion of the Back Bay lands adjacent to the public garden in the city of Boston, to which attention of the legislature was called in my address of the seventh instant.

I have also the honor to transmit to the honorable senate, for the use of its members, copies of an address to the council, upon so much of the affairs of the Commonwealth, as by its constitution and laws are within the province of that department of the government.

[To the House of Representatives, January 18.]

I have the honor to transmit to the house of representatives, for the use of the legislature, a report of a committee of the council, accepted by that body, and other papers relating to the Hoosac Tunnel.

[To the Senate, February 3.]

I have the honor to transmit to the senate, for the use of the legislature, resolutions passed by the legislature of New York, and also a memorial of the canal board and canal commissioners of the State of New York, to the congress of the United States, asking for the improvement of the lake harbors.

I have also the honor to communicate a letter of his excellency the governor of the State of New York, upon the same subjects.

[To the House of Representatives, February 19.]

In reply to an order of the house of representatives of the sixteenth instant, calling for such information as the executive department of the government is able to furnish, concerning the muster rolls of the militia of Massachusetts in service during the late war with Great Britain, I have the honor to say, that the muster rolls of the militia troops of Massachusetts, called out and paid by authority of the State, were, at an early date, transferred to the government at Washington, and are now in possession of the department of war. It does not appear from any records remaining in the office of the adjutant-general, at what time the transfer was made. The government at Washington, in reply to

requests of this State, as of other States, has invariably declined to surrender the original rolls, upon the ground that they were received by the United States as vouchers, in refunding money paid to the troops by the State. The government has declined to furnish copies of the rolls, for the reason that the clerical force of the department would be insufficient to make copies for all the States; and were it otherwise, that the constant use of the rolls made in preparing evidence of the services of claimants for land grants, under the several acts of congress, on the subject of military bounties, rendered it impossible that copies should be made by persons employed by authority of the States.

I had the honor to address a letter of inquiry upon the subject, to the secretary of war, on the tenth of February, 1858, and transmit to the house of representatives, his reply, with other papers relating to similar applications heretofore made by the legislatures of this, and of other States.

[To the House of Representatives, February 23.]

I transmit, herewith, the account of Samuel L. Harris, Esq., of Washington, D. C., for services in the prosecution of the claim of this State, against the United States, under the treaty of Washington, by authority of letters of appointment, dated April 9, and May 10, 1844, and May 7, 1846.

[To the Senate, February 24.]

I have received from the senate, an order of the twenty-third instant, presenting the inquiry whether, in my opinion, in case the estate of the late governor Hancock should become the property of the Commonwealth, and be made hereafter the official residence of the governor, it would materially increase the expenses, or necessarily lead to or require an increase of the present salary, of the governor.

I have the honor to inform the senate, in answer to this inquiry, that in my opinion, it would not materially increase his expenses, or require any addition to the present salary of the governor. If it were to be applied to my own case, I think it would rather diminish than add to my expenses. Such a residence could be appropriated properly only to the general social intercourse of all persons without exception, connected with the government, and not to select or expensive entertainments. The character of the estate is adapted to simple, inexpensive and general intercourse, and not to that of a different character. It should be provided in any transfer that is made to the Commonwealth, that the interior

and exterior character of the building should be substantially preserved, and the legislature can extend its prohibition of change to any limit that may seem desirable to guard against possible inconvenience or evil. If it shall be made an official residence, and become an established custom, that at reasonable but proper occasions gentlemen of all parties, with their constituents or friends, were to meet for exchange of civilities and social intercourse unembarrassed with vexatious official cares, it will be found to be a practice of such general public utility and personal satisfaction, that the simple, inexpensive and democratic rule upon which only such intercourse can be maintained will never be departed from. There are customs more powerful than legislation, and this would be of that character.

I confess that I am oppressed by the fact, that with exception of those persons with whom I had previous acquaintance, and from my absence for several years past they are few, and those with whom the accidents of official business have brought me in contact, I am honored with the personal acquaintance of scarcely one of the three hundred gentlemen who are associated with me in the government of the Commonwealth. I give my time unreservedly to the duties of my office; and although I am at the capitol usually from ten o'clock until five, without intermission, so constant and varied are the business engagements of all, that no opportunities are offered for such intercourse or acquaintance. I am certain that it is not for the interest of the people, or of wise legislation, that this should be the case. Nothing so much softens the asperities of parties, or contributes so much to wise legislation, as frequent and kindly personal intercourse of those entertaining conflicting opinions. It may be asked why a state of things is presented at this time which differs from that of previous years, but the great changes that have taken place in public affairs in ten years past, afford a sufficient explanation.

The appropriation of \$10,000,—a sum amply sufficient for necessary repairs and furnishing the house, in addition to the purchase money of the estate,—will be the entire expenditure to which the Commonwealth will be subjected, if the legislature concur in the recommendation of my annual address. The State will therefore be able, at any moment hereafter, to dispose of it for a sum larger than its entire cost, if deemed expedient. The patriotic and historic associations connected with this estate will be no more strongly urged to prevent its sale hereafter, than now to secure its perpetuation; but if it be found hereafter that a single

inconvenience arises, or that unreasonable expenses are entailed, the Commonwealth will have an additional reason for the transfer not now existing against the purchase, in the fact that it may be effected without any pecuniary sacrifice whatever.

But this I am confident will not be the result; and I am equally well assured that it will afford the highest gratification to the truly patriotic people of this Commonwealth, if this ancient and renowned home of the first president of an American congress of united and independent states, the first signer of the declaration of American independence, and the first governor of the Commonwealth of Massachusetts under a republican constitution, can be preserved in the name and for the honor of the government.

[To the House of Representatives, March 4.]

I have the honor to transmit, for the use of the legislature, the twenty-second annual report of the board of education, and also the report of the secretary of the board of education.

[To the Senate, March 8.]

I have the honor to transmit to the senate, for the use of the legislature, a communication from the treasurer and receiver-general, relating to an estate which by foreclosure of mortgage has come into the possession of the Commonwealth. It is the opinion of the treasurer and receiver-general, that the public interests require that the estate should be sold; but as it appears from a communication of the attorney-general, that existing laws do not authorize the sale, additional legislation will be necessary if the legislature shall concur in the opinion that the public interests require that the property should be sold.

I have also the honor to transmit a report of the council, and a communication of the attorney-general upon the same subject.

[To the House of Representatives, March 8.]

I have received information from the agent of the State of Massachusetts, appointed for the prosecution of the claims of Massachusetts and Maine, for military services, and the reimbursement of expenses incurred during the late war with Great Britain, in the protection of the maritime frontier of the Commonwealth, that an appropriation of \$227,176 was made by an act of the last congress of the United States, for the payment of these claims. I have received from the agent of the State of Maine information of the same character. It will be necessary, if such appropria-

tion has been made, that the treasurer, or such other officer as in the judgment of the legislature may be deemed expedient, shall be authorized to receive any moneys to be paid for this purpose to the Commonwealth, from appropriations of the late congress. It will be necessary, also, that the adjutant-general shall be authorized, on the part of the Commonwealth, to deliver to the possession and for the use of the United States "all warlike stores, remaining in the possession of the Commonwealth, which have been paid for by the general government."

[To the House of Representatives, March 10.]

I have the honor to transmit to the house of representatives, for the use of the legislature, a communication from the honorable Edward Everett, inclosing a certified copy of resolutions adopted at a meeting of the general committee having in charge the statue of Mr. Webster, and requesting permission of the legislature to place the statue, at the expense of the Webster Memorial Fund, on some suitable spot within the state house grounds.

Under such regulations, as in the judgment of the legislature may be deemed expedient, with reference to the nature of the grounds and the character of the statue, I recommend that the request of the general committee of the friends of Mr. Webster be granted. Mr. Webster gave to the service of the Commonwealth the best years of his life. Entering the public councils in 1820, he devoted himself to public employments in the constitutional and legislative assemblies of the State, in both houses of congress, and in the cabinet, until the closing hours of his life. His eloquence, superior attainments and unsurpassed intellectual power, contributed in an eminent degree to mark the period of his public service as one of the most interesting and important that has occurred since the adoption of the constitution. If permission to place the statue on some suitable spot within the state house grounds shall be granted, it is probable that other works of art commemorating the services of distinguished citizens of the Commonwealth will speedily be created; and thus the legislature will be enabled without public expense, by a proper exercise of its power, to add to the attractive beauties of the capitol, to elevate the public taste in works of art, and to strengthen the influences which appeal directly to the patriotism of the people.

[To the House of Representatives, April 1.]

I have the honor to transmit to the house of representatives, for the use of the legislature, the sixth annual report

of the secretary of the state board of agriculture, with an abstract of returns of the agricultural societies of Massachusetts for 1858.

[To the House of Representatives, April 6.]

A resolve entitled "Resolve concerning the compensation of the members of the legislature for the extra session and of the Committee on the Revision of the Statutes," has been transmitted to me for approval. It provides for the compensation of the members of the legislature for their services during the extra session, to be held in September, for the consideration of the revision of the statutes of the Commonwealth and for the compensation of the committee appointed to sit during the recess.

It is not my purpose, nor is it my right, except in a very extreme case, to interpose in any manner whatever, any views of my own upon the amount of compensation which the legislature may regard as a proper equivalent for services rendered to the public.

But the proper time for the consideration of this subject, which requires the assent and concurrence of the different departments of the government, presents an inquiry upon which, without unwarrantable interference with the prerogative of the legislature, I may be allowed to suggest considerations of public interest.

And I therefore most respectfully request the legislature to consider whether it will not be more consistent with our duties to the people to provide that the subject of compensation of members of the legislature shall be considered and determined during the session to which the compensation shall relate, when an accurate estimate will be possible of the extent and character of its labors. Until the revised code shall have been examined by the committee appointed for this purpose, the length and labor of the session cannot be so correctly estimated as to afford a proper basis and justification for an appropriation of public money.

In order that an opportunity may be presented for the reconsideration of this subject, which must necessarily have been acted upon during the last hours of the present session, without the most mature deliberation; and in the belief that I ought not at the present moment to give it my approval, I return the resolve to the house of representatives in which it originated, with my objections thereto, according to the provisions of the constitution.

[To the Senate, April 6.]

I return to the senate, in which it originated, a bill entitled "An Act concerning the sale of wheat, corn, other grains and meal," without my approval. This act vests in the president and directors of the Boston Board of Trade the exclusive right of appointing a principal measurer of wheat, corn, other grains and meal; an officer without whose official sanction, or that of his deputies, no legal sale can be made, of one of the great staples of life.

This measure seems to me inconsistent with sound principles of legislation and the spirit of the constitution.

The Boston Board of Trade was incorporated by the act of 1854, chapter 412, which made certain gentlemen a corporation by that name, with all the privileges and subject to all the liabilities pertaining to corporations of the Commonwealth. It is prohibited by its charter from trafficking in merchandise or holding property to the value of more than one hundred thousand dollars; with such exceptions it has nearly an irresponsible authority in making its own by-laws, and regulating the succession of its own members. It is mainly a close corporation, perpetuating itself by the choice of new members; but neither such choice, nor the laws regulating it, are subject to revision or control by any branch of government.

In the natural course of events it must happen that such an association will chiefly represent the vendors rather than the consumers of grains. However excellent the influence of such associations may be upon general traffic, it does not seem to be the proper depository of executive appointment. If the sale of grains is of such importance as to require legislative enactment, the duty of executing such laws should be intrusted to those who would be responsible to the people or to the legislature. The declaration of rights provides, that "the several magistrates and officers of government vested with authority, whether legislative, executive or judicial, are the substitutes and agents of the people, at all times accountable to them."

It also provides that "no man nor corporation, or association of men have any other title to obtain advantages, or particular and executive privileges distinct from those of the community, than what arises from the consideration of services to the public." It is not apparent in what manner officers appointed by such corporation can be held responsible to the people, as their substitutes or agents, or what services rendered to the public entitle this corporation to the exercise of this political right.

It is with diffidence and no inconsiderable regret that I am compelled to present my objection to the passage of this act, but though of itself not of the highest importance, it is of such a character as to require of the legislature a close adherence to sound principles of legislation and constitutional authority in providing for the appointment of public officers charged with the duty of executing the laws of the Commonwealth.

[To the Senate and House of Representatives, respectively, April 6,—delivered verbally by the Secretary of the Commonwealth.]

His excellency the governor has been informed by a committee of the senate and house of representatives, that having transacted the public business, it is their desire that the two houses shall be prorogued to the first Wednesday of September next. In acceding to this request, his excellency has instructed me to present to the members of the senate and house of representatives his thanks for the favorable consideration they have given to his recommendations, and also to make his acknowledgments for the very great industry which has been exhibited in the discharge of public duties during the session. He believes that no legislature has performed an equal amount of labor in the same period of time.

The legislature has been in actual session 79 days; 274 acts and 105 resolves have been passed; all of which have been approved, with the exception of an act entitled "An Act concerning the sale of Wheat, Corn, other Grains and Meal;" a resolve entitled "Resolve concerning the Compensation of Members of the Legislature for the extra session, and of the Committee on the Revision of the Statutes," and a resolve entitled "Resolve for the payment of Clerks, Doorkeepers, Messengers, and Pages, during the extra session of the Legislature, and during the session of the Committee appointed to sit during the recess."

The amount of appropriations which have been made from the ordinary revenue, for the expenses of the present year, is \$993,020.44, including the expenses of the committee to sit during the recess; and for expenses incurred in former years \$61,816.82, to cover which there are unexpended balances of appropriations of the year 1858, estimated at \$40,000.

I am further instructed by his excellency to inform the legislature that with the advice of the council, he is pleased to prorogue the general court, agreeably to their request, to the first Wednesday of September next, and the general court is prorogued accordingly.

ADDRESS TO THE COUNCIL.

HIS EXCELLENCY THE GOVERNOR, UPON THE ORGANIZATION OF THE EXECUTIVE COUNCIL, FOR THE YEAR EIGHTEEN HUNDRED AND FIFTY-NINE, ON THE ELEVENTH DAY OF JANUARY, DELIVERED TO THAT BODY THE FOLLOWING ADDRESS.

GENTLEMEN: In opening the sessions of the Council, for the new political year, it has seemed to me just and expedient that we should review briefly the business to be presented to us, and to establish definite principles of action for our guidance. My own brief experience in the executive department strongly supports this course.

The administration of governments by Councils was the form first adopted on this continent by companies of English origin. The councils were the chief feature of the charter granted to the Virginia Company in 1606. The supreme council in England named the Colonial Council, which, though subject to direction of the Company in London, had power to remove its own officers or members, and to fill vacancies independent of those who were thus governed.

In 1609, by a second charter, the crown surrendered the absolute power it retained over both English and Colonial Councils, and gave to the stockholders of the Virginia Company authority to elect the supreme council, and appoint a governor, who, subject to the will of the Council, should exercise absolute authority over the colonists in all civil and religious affairs. A third charter recognized to some extent the rights of the people who were governed, restricting the power of the governor by the appointment of a local Council, through which the colonists were admitted to some share in their own government. In 1619 the first general assembly met, and two years after its authority was recognized and confirmed. A constitution modelled upon that of England, was secured to the colony, and this in turn became the prototype of all governments of English origin on this continent.

Although sitting at first, as one body, the assembly was composed of the governor, council and deputies, and the separate assent of each was necessary to the validity of any law.

The government thus organized in Virginia, became the model for all American governments of English origin.

The Council, as a part of the government, first appears in New England in the Plymouth Colony in 1624. Upon the death of governor Carver, in 1620, Bradford was elected to that office. After three years' service he solicited the appointment of a council, first consisting of five, and afterwards of seven members, in whose meetings the governor had a double vote.

The government provided by the Massachusetts charter in 1629, consisted of a governor and thirteen councillors; the governor and eight councillors to be appointed in England, three more by the eight so elected, and two by the colonists: and thus constituted, the government was invested with all powers of legislation and administration in civil or criminal affairs. Subsequently the government was transferred from England to the colony itself, and the Puritans, regarding its charter as a summons from heaven inviting them to America, greatly increased the population of the colony. Under the charter, the power of the people, restricted to the number of church members, was nearly unlimited, and their government more democratic than any previous to the Revolution.

In 1685 this charter was revoked, and the appointment of councillors, as well as governor, was reserved to the crown. Upon the accession of William III., a new charter was granted and accepted, which, while it reserved to the crown the appointment of governor, gave to the colony the choice of twenty-eight councillors; and a general court, to consist of two deputies from each town, was established at the same time.

After the declaration of independence, until the organization of the government under the constitution of 1780—the office of governor being vacant—the executive council was charged with direction of public affairs.

Throughout the whole of this history the Council has exercised important, and sometimes exclusive political power; representing at one time the crown, at another the people, and supported or assailed by the crown or the people as prerogative or liberty was affected.

The Council as it now exists—except so far as modified by very recent amendments—was established by the constitution of 1780. Although reforms or changes have been sometimes proposed, I am not aware that there has been submitted a distinct proposition to abolish the Council, except in the constitution of 1778, reported by the legislature of that year, and rejected by the people. That instrument

does not appear to have recognized the Council, though this was not specially urged as an objection. The governor was to be president of the senate, the majority of the senate to exercise executive power if the offices of governor and lieutenant-governor became vacant, and the prerogative of pardon was vested in the governor and lieutenant-governor and the speaker of the house of representatives.

Notwithstanding the important part the institution of the Council has performed in every period of our history, it now remains as an element of political power only in three States. Thus, this institution which was the earliest form of political organization planted upon this continent, out of which every existing government has grown; which has been assailed as the enemy or defended as the supporter of freedom,—either for the purpose of simplifying the process, or obtaining more direct responsibility in the exercise of political power, has disappeared from every constitution except that of our own State, and the States of Maine and New Hampshire, originally parts of our own territory. With such a history, of course it could not fail to bear upon its rolls the names of some of the most distinguished men of the Colony and the Commonwealth.

In these transitions, its duties and character have been necessarily much changed; under colonial charters it represented the people against the crown; under the present constitution it originally represented the corporate democracies, the towns and cities, and also stood for the counties and the legislature, as a balance against the governor, who represented the popular element merely, and was elected by a majority only of the popular vote. The Council is now an elective body, representing districts organized solely upon the principle of population.

The duties of councillors, determined by the constitution or by statute law, are essentially changed. Without noticing in any especial manner the changes which have taken place, it may be proper to glance for a moment at those duties as they now exist.

Those assigned to councillors by the constitution are:—

1st. To assemble at the request of the governor and advise him in the executive department of government, agreeably to the constitution and the laws of the land.

2d. To advise and consent to all warrants drawn upon the treasury.

3d. To advise the governor in assembling, adjourning or proroguing the legislature, or in directing the place where

its sessions shall be held within the State in case infectious disease or other cause shall require removal.

4th. To advise and consent to the appointment of judicial and other officers, and to advise and consent to removal from office upon address of both houses of the legislature.

5th. To perform executive duties when the offices of governor and lieutenant-governor shall be vacant.

6th. To attend the governor in administration of the oath of office to senators and representatives: and

7th. To advise and consent to the exercise of the pardoning power.

The duties devolving upon councillors by provisions of law are:

1st. To examine and count with the governor the votes given in certain elections.

2d. To visit with the governor the charitable, reformatory, or correctional institutions, and to advise as to their general discipline; to advise and assist the governor as to appointments for the board of education, board of agriculture, pilots and pilotage, and also to advise in the management of State funds, as to the appointment and compensation of commissioners or other officers, and the guardians of Indian tribes.

There may be other duties not enumerated in these two classes, but chiefly they are here stated. There are but few of them, to which, with reference to the coming year, I desire to call attention; but to one or two I shall ask careful attention as topics of vital importance to the people of the Commonwealth.

They are briefly the expenses of the council, the length of sessions, and the exercise of the constitutional prerogative of pardon. And I desire to say explicitly, in adverting to these departments of duty, that it is without purpose of reflecting in any manner whatever upon other administrations, but simply to suggest opportunity and necessity for improvement. Indeed, any thing I may say upon either of the topics I have named, will reflect as harshly upon my own as upon any other administration, were censure my object. But it is not. I have learned by very patient and assiduous labor, to respect all past administrations, and in all that shall follow, my own as well as others, to believe that improvement is possible.

And first, as to the subject of expenses, I invite the attention of the council to the costs of its sessions for a period of ten consecutive years. As in other departments of the government, they have been very greatly increased.

In the year 1849 the expenses of the council were \$3,779. Every year presents a steady increase, until 1855, when the sum was \$9,596; in 1856, \$8,900, and in 1858, \$8,701. I am unable to see the necessity for a material increase in the cost of this department to the State, since 1849, except in two respects—the amount of compensation and the duties and cost of visitation and travel, both of which are increased. But though the number of councillors is the same, the sessions of the legislature are now very much reduced in length.

With every year there is a material increase of business growing out of the issue of commissions. Those commissioned in previous years regard a neglect of renewal as a personal wrong, and in some counties, as Suffolk or Middlesex, the growth of trade demands greatly increased facilities, to be furnished only in this manner.

The sessions of the council have increased greatly in ten years. In 1849 the actual sessions of the council numbered 137 days. In 1855, they numbered 227 days, and in 1858, 163 days.

I think it practicable to limit very largely the length of sessions, and to reduce in corresponding ratio the expenses of the year. Indeed, I do not understand, with such suggestions as I shall hereafter make, why the expenses of the present year may not be reduced to \$5,000. While every other department is laboring zealously to retrench its expenditures, I trust the executive branch will be willing, as far as possible, to co-operate in the same good work—presenting increased vigor in the department, at greatly reduced cost.

A principal cause of increase both in expenses and in sessions, will be found in the extended exercise of the pardoning power. The committee on pardons—during the last year enlarged so as to embrace all the members of the council—has been in session a considerable part of the year, as a court of pardons.

The exercise of the pardoning power demands very serious consideration, if it does not call for essential reform, whether we regard it as a matter of economy or of administration of criminal justice. During the last year 68 pardons have been made by the governor, with advice and consent of council. If to this number we add those imprisoned for minor offences who have been discharged by overseers in the same time, and which are set down as pardons in our criminal returns, the number pardoned is 267.

There has been a very considerable increase in the number of pardons by the governor and council of late years, and it

is a serious question in my mind whether the proper administration of criminal justice requires, or even justifies, such liberal dispensation of the pardoning power as formerly existed, still less, that shown by later returns.

Punishment partakes of the character of government. In a despotic state it is uncertain, depending upon the character or caprice of the ruler, subject to no law but his personal interest, and having no object but his personal advantage. In a republican government the law of punishment should be like every other law, established for the public good, and executed with as much certainty and with as few exceptions as the lot of humanity will admit. It should therefore be equable, capable of being applied with equal justice to crimes of different degrees; it should be certain, exemplary, reformatory, and the least possible sum inflicted that can be justified with reference to the principles upon which it is administered. Thus Montesquieu says, that "in despotic governments there are no laws; the judge himself is his own ruler. In republics, the very nature of the constitution requires the judges to keep to the letter of the law. Here there is no citizen against whom the law can be *interpreted* in cases where life, liberty or possessions are concerned." "Clemency is the peculiar characteristic of monarchs. In republics whose principle is virtue," that is, equality, "it is not so necessary."

The more the power of pardon for crimes is extended, the more directly does it interfere with the principle that underlies our government and the constitution; that which prohibits the interference of either department with the prerogatives of any other. The legislature defines the crime and limits the penalty: the judicial department hears evidence and determines punishment. The executive has no part in the work, and ought never to intervene except when in possession of such facts as lead directly to the conclusion that neither legislative nor judicial tribunals being in possession of the same knowledge, would have framed or applied the law. This rule I fear would not cover many of the cases in which pardon has been granted in past years. It may seem harsh, but on the contrary it is the rule of mercy; the only rule under which punishment can be apportioned to crime, and the certainty of infliction obtained, which reforms the guilty and deters the innocent from its commission. It is the rule, as I have said, that underlies a government of equal laws, and one which the most humane, compassionate and wisest men, seeking to save men from crime, as well to reform the guilty, have sought to enforce both upon judges

and legislators. It is under this rule only that we can appeal to other departments of our own government against inhumanity of laws, or severity of sentences. There is no author from Montesquieu, the earliest and among the ablest of modern writers on crimes and punishments, to the present time, so far as I know, that does not confirm this view. I have referred to Montesquieu's statement that clemency is inapplicable to republican governments whose rule is virtue or equality. I may say also, that where he speaks of the advantages of letters of grace, that is, of pardons, it is with reference to the popularity that monarchs attain by acts of clemency, applied chiefly, let me say, to political offences as in the recent case of Count de Montalembert, in France.

Mr. Bentham, in his essay upon the "Rationale of Punishment," states the reasons for pardon and the consequences of its frequent application, with such force and felicity as in this instance to realize the standard of excellence, which he thought justified authorship,—that a work should be so perfect as to render valueless all written before, and prevent further essays afterwards upon the same subject. "Remissibility," that is, pardon, he says, "is the last of all the properties that seems to be requisite in punishment. The general presumption is that when punishment is applied, punishment is needed; that it ought to be applied, and therefore cannot be remitted. But in very particular, and those very deplorable cases, it may by accident happen otherwise. Punishment may have been inflicted upon an individual whose innocence is afterwards discovered." In such cases, he regards pardon as necessary, but also urges that penal legislation should be such as to make remission possible. But on the frequent defeasance of punishment by pardon, his condemnation is emphatic and just. Hear him! "Of pardon. It is necessary to increase the magnitude of a punishment in proportion as it is wanting in uncertainty. The less certain your punishments are the more severe they must be; the more certain your punishments are the more you may reduce their severity. What shall we say then, of a power expressly established to render them uncertain? I mean the power of pardoning: it has cruelty for its cause, it has cruelty for its effect."

There is still stronger protest in the thoughtful language of Beccaria, whose words illumined the age in which he lived, and have grown brighter with every succeeding generation, as their truth has been tested by merciful legislation and wise administration.

"As punishments become more mild, clemency and pardon are less necessary. Happy the nation in which they will be considered as dangerous! Clemency, which has often been deemed a sufficient substitute for every other virtue in sovereigns, should be excluded in a perfect legislation, where punishments are mild, and the proceedings in criminal cases regular and expeditious. This truth will seem cruel to those who live in countries where, from the absurdity of the laws and the severity of punishments, pardons and the clemency of the prince are necessary. It is indeed one of the noblest prerogatives of the throne, but at the same time a tacit disapprobation of the laws. Clemency is a virtue which belongs to the legislator and not to the executor of the laws; a virtue which ought to shine in the code and not in private judgment. To show mankind that crimes are sometimes pardoned, and that punishment is not the necessary consequence, is to nourish the flattering hope of impunity, and is the cause of their considering every punishment inflicted as an act of injustice and oppression. The government, in pardoning, gives up the public security in favor of an individual, and by its ill-judged benevolence proclaims a public act of impunity. Let then the executors of the law be inexorable, but let the legislator be tender, indulgent and humane."

I have ordered these words to be printed in letters of gold, that constantly in our sight they may fill the chamber of pardons with the fragrance of mercy and wisdom. I might enlarge to almost any extent authorities against a too frequent intervention of executive clemency: authority of those who have believed like Romilly, that if it were possible to reduce punishment as a consequence of crime, to absolute certainty, imprisonment for a few weeks only would prevent every criminal act, not arising from sudden and ungovernable passion.

It may be well to inquire what has been the extent, and what the effect of executive pardons in this State. I have already said that the pardons granted by the governor and council during the past year number 68, and that remissions ordered by overseers of jails and houses of correction enlarge the number to 267.

The increase on the years immediately preceding is not material, but taken in periods of five years it is worthy consideration. The average number of pardons in five years from 1853-58, was 64; for five years preceding, 1849-53, it was 56. The average number of pardons from the State prison in five years, 1853-58, were 27; in the five years preceding, 1849-53, they were 16; in the five years, 1844-48, they were 13. This does not show an increase disproportioned to the number of prisoners, but to justify this executive

clemency the number of prisoners should have been reduced instead of increased.

I do not reason against the exercise of this power on the ground of the increase of crime. The increase of crime is much less than appears from the results presented by imperfect and general official returns now made. If we take the number of criminals committed to jails and houses of correction for trial upon the more serious criminal charges, as exhibited upon page 590, we shall find that the average number of commitments of this class for five years ending 1858, was 540; while for the five years ending 1853, it was 338. And this with much less full returns for the first than the last period. It is the commitments for the minor class of offences, such as are specified on page 591, most of them ordered by justices, that swell the number of criminals and darken the fame of the Commonwealth with factitious evidences of an amount of crime that has no actual existence. But the best evidence of actual crime is in convictions; and taking the returns of convictions in the courts of the Commonwealth, for a period of ten years, not including the justices' returns, it will appear that weightier crimes are actually diminished in number.

Thus, the average number of convictions in the courts for five years, ending 1852, was 1,818; while the average number for the five years ending 1857, repeating the number for 1852 in this period, because of the failure in the returns for 1853, the number is 1,681—an annual reduction of 137. This confirms, in a still stronger manner, the conclusion, that the frightful increase presented in the aggregate numbers of criminals is in those arrested for comparatively venial offences. In one or two respects the tables exhibit disparaging results. The class of crimes in which young persons are more likely to be engaged, as burglary and larceny, and in which pardons are often solicited, are largely increased; and the number of persons committed for crime, "who have been in prison before," is a much larger percentage than is gratifying. It is more difficult to ascertain what proportion, if any, have received pardons; but it would seem that there are some, from public statements of those who have officiated as prosecuting officers.

It is not, therefore, on the ground of an increase in crime solely, that I recommend consideration in granting pardons. It is more in the effect produced by the practice upon all classes in the Commonwealth. It affects the discipline of the prison. You will learn from the Warden of the State

prison that it is rare to find a prisoner not in hope for this result.

I learn from the highest professional authority that men on the instant of conviction commence efforts for pardon. It is stated here, in these hearings before the Council, that prosecuting officers sometimes urge conviction upon the ground that if it be not just a pardon can be obtained; there is even reason to suppose that, in some cases, weak persons, for the protection of associates, are induced to confess crime upon assurances that pardon will be accorded: and sentences of undue and sometimes of great severity are justified by popular impression, that a man serves but little more than half the sentence imposed. Such, gentlemen, is the impression made upon my mind as to the results of this practice, from evidence presented here. You will judge, upon inquiry and experience, whether the impression is correct. If it be, there cannot be a doubt that the practice is injurious, and for a period, at least, should be suspended. For we must remember that although a few friends may be gratified, and a few individuals relieved, it may at the same time tempt innocent persons, increase the severity of legislation, retard reformation and impair the power of justice.

Nothing is further from my purpose than to reflect upon any one for the result to which I have referred. The question is how to prevent it. If I were to ask of councillors at this board, shall we pardon during the year seventy persons convicted of crime? every member would give a negative answer. Were we asked if the pardon of such a number of prisoners does not convey an imputation upon the integrity or intelligence of courts, every one of us must answer in the affirmative. And yet, gentlemen, if we begin in the same way, we shall reach the same conclusions. One pardon prepares the way for another, and one-tenth of the number stated being issued, the remainder follows with singular certainty. My advice, gentlemen, is, that if we would seek a different result, we should let it be understood by the courts, by the people, and especially by those who are tempted into crime, that this year, upon this subject, there is a new departure. Let us look at the constitution. The constitutional men were wise men.

The ninth article of chapter second declares that "all judicial officers" "shall be nominated and appointed by the governor, by and with the advice and consent of the council." The eighth article declares that "the power of pardoning offences, except such as persons may be convicted of before the senate by an impeachment of the house, shall be in the

governor, by and with the advice of council." The proceeding in nominating officers and in pardoning criminals, is the same. It was manifestly intended that responsibility in both cases should attach to the governor, and I know of no better method of restricting the exercise of the constitutional power under discussion than for the executive to accept the responsibility imposed by the constitution, and to present to the council such cases for consideration only, as in his judgment require that pardon should be granted. Such is the importance of this subject in my view, that with your consent I shall be willing to take upon myself this labor and responsibility.

I desire to be understood as inimical in no respect to the welfare of prisoners. By every method within my power and influence, I desire to improve their condition. I shall appeal to the legislature to prohibit by statute, cruel and unnecessary punishments sometimes inflicted; such I understand to be, for example, that of the shower bath. I shall appeal to those whose duty it is to determine what personal comforts shall be allowed them, to extend their allowance to such articles as by custom have become necessities, which enable them contentedly to bear confinement, support alike the physical and nervous system, and while not deleterious to health may save them from suffering that cannot be named, and which by proper use, as rewards and punishments, may contribute materially to improve the discipline of prisons. I would encourage the policy which now exists of maintaining a government of restraint, not of force, still less of cruelty, and demand for them under all circumstances from their officers, cleanly and sufficient food and clothing, and courteous, impartial, humane and manly treatment. I would unhesitatingly grant pardons whenever the legislative and judicial departments would not probably concur in inflicting punishment; in cases for instance, where innocence is substantiated, where insufficient age or mental power makes it impossible or improbable, that criminal intent actually existed; when reformation is absolutely certain, or where death is likely to terminate any earthly judgment upon the infirmities of men. I would demand for them of legislation, the mildest statutes consistent with the certainty of punishment, the welfare of the State and the safety of the people; but in the administration of such laws, whatever rule shall be established, must be regarded as law for all, and not for exceptional or individual application.

I cannot refrain from adverting to one of the strongest grounds of appeal for pardon, arising out of undue severity

of sentence, and the inequality of punishment applied in different cases to crimes of similar grade and character. No existing evil of this nature confers upon us the right of re-examination. The law, by which we must be governed, has placed the responsibility elsewhere; but the facts officially presented to us render it proper that attention should be called to the subject. Inflexible severity of sentence establishes measurably a law of impunity and increases the uncertainty of conviction, which is the prolific mother of crime. Great inequality of sentences extinguishes whatever of contrition may exist in the criminal, by favorably contrasting his own conscious wrong, modified as it is by recollection of circumstances and conditions, known only to himself, with the voluntary and unnecessary injustice committed by the State in his own person.

I am aware that there are occasions when novel crimes are committed that justify the greatest severity, in order that the commission may be checked by certain and terrible punishment. But in all such cases, the severity is universal, and does not therefore come within the practice to which I refer. It would seem that the legislature should provide, in cases of extraordinary severity of sentence for an appeal to the full bench of the court in which sentence was pronounced, and authority given to lessen its rigor. There is no greater evil connected with our criminal system than that which pertains to inequality and undue severity of sentences, and I trust that the day is not distant when punishment will in no case be considered an act of violence; when in all cases in public and private estimation it may be immediate and necessary; the least possible, in the case given; proportioned to the crime and determined as far as possible by standing laws.

Gentlemen of the Council, the general statement I have thus presented, of official duty, is unusual I am aware, but I trust it will not be the less acceptable. A systematic arrangement of business, facilitates public interests. It may in this view be expedient to make a more formal organization and establish more definite rules for our guidance. I anticipate from our official intercourse pleasant personal relations, and I trust the public interests may not suffer at our hands during the brief period in which we are charged with responsible duties to the government and the people.

S T A T E M E N T

OF THE NUMBER OF DAYS' ATTENDANCE, AND ANNUAL
EXPENSES OF THE COUNCIL; TOGETHER WITH THE
NUMBER OF PARDONS GRANTED, AND PETITIONS FOR
、 PARDONS REJECTED, DURING TEN YEARS, 1849-58.

COUNCIL SESSIONS.

YEARS.	FROM JAN. 1 TO DEC. 31.			ACTUAL SESSIONS OF EACH COUNCIL.		
	Winter Ses- sion Days.	Extra Days.	Total.	Winter Ses- sion Days.	Extra Days.	Total.
1849, . . .	119	17	136	110	27	137
1850, . . .	123	32	155	113	47	160
1851, . . .	144	32	176	123	45	168
1852, . . .	139	52	191	127	67	194
1853, . . .	145	47	192	126	59	185
1854, . . .	118	45	163	115	54	169
1855, . . .	156	70	226	144	82	227
1856, . . .	157	50	207	145	61	206
1857, . . .	150	61	211	138	68	206
1858, . . .	86	84	170	82	81	163

EXPENSES OF THE COUNCIL.

Year.	Amount.
1849, ...	\$3,779 00
1850, ...	4,918 00
1851, ...	5,153 00
1852, ...	5,418 00
1853, ...	6,104 00
1854, ...	7,303 00
1855, ...	9,596 00
1856, ...	8,901 00
1857, ...	8,747 50
1858, ...	8,701 00

PARDONS, COMMUTATIONS, AND EXECUTIONS.

[P.—Pardons. C.—Commutations. E.—Executions.]

MONTHS.	1849.			1850.			1851.			1852.			1853.			1854.			1855.			1856.			1857.			1858.		
	P.	C.	E.	P.	C.	E.	P.	C.	E.	P.	C.	E.	P.	C.	E.	P.	C.	E.	P.	C.	E.	P.	C.	E.	P.	C.	E.	P.	C.	E.
January, . . .	11	-	-	8	-	-	2	-	-	6	-	-	2	-	-	7	-	-	2	-	-	4	-	-	-	-	-	5	1	-
February, . . .	7	1	-	1	-	-	4	-	-	5	-	-	3	-	-	1	-	-	6	-	-	3	-	-	8	-	4	-	-	-
March, . . .	3	-	1	6	-	-	5	-	-	7	-	-	6	-	-	6	-	-	8	-	-	9	-	-	4	-	14	-	-	-
April, . . .	9	-	-	3	-	1	8	-	-	7	-	-	6	-	-	9	-	-	5	-	-	4	-	-	8	-	5	-	-	-
May, . . .	-	-	-	1	-	-	9	-	-	14	-	-	9	-	-	1	-	-	6	-	-	6	-	-	6	-	6	-	1	-
June, . . .	2	-	-	1	-	-	5	-	-	2	-	-	-	-	-	8	-	-	8	-	-	7	1	-	4	-	5	-	-	-
July, . . .	4	-	-	3	-	1	3	-	-	6	-	-	5	-	-	1	-	1	6	-	-	8	-	-	7	-	7	-	-	-
August, . . .	1	-	-	2	-	-	-	-	-	9	-	-	-	-	-	-	-	-	1	-	1	4	-	-	-	-	1	-	-	-
September, . . .	-	-	-	-	-	-	4	-	-	10	-	-	4	-	-	3	-	-	6	-	-	6	-	-	4	-	4	-	-	-
October, . . .	4	-	-	6	-	-	3	-	-	5	-	-	2	-	-	6	1	-	1	-	-	6	-	-	7	-	4	-	-	-
November, . . .	2	-	-	8	-	-	1	-	-	9	-	-	2	-	-	5	-	-	4	1	-	4	-	-	4	-	9	-	-	-
December, . . .	1	-	-	3	-	-	7	-	-	8	-	-	16	-	1	9	2	-	17	-	-	9	-	-	4	-	4	-	-	-
Totals, . . .	44	1	1	42	-	2	51	-	2	88	-	-	55	-	1	56	3	1	70	1	1	70	1	-	56	-	68	1	1	1

RECAPITULATION—PARDONS, &c.

YEARS.						Pardons.	Commutations	Executions.
1849,	.	.	.	.	.	44	1	1
1850,	.	.	.	.	.	42	—	2
1851,	.	.	.	.	.	51	—	—
1852,	.	.	.	.	.	88	—	—
1853,	.	.	.	.	.	55	—	1
1854,	.	.	.	.	.	56	3	1
1855,	.	.	.	.	.	70	1	1
1856,	.	.	.	.	.	70	1	—
1857,	.	.	.	.	.	56	—	—
1858,	.	.	.	.	.	68	2	1
Totals,	.	.	.	.	.	600	8	7

PETITIONS FOR PARDON REJECTED.

YEAR.	No.	By whom Returned.
1849, ...	—	No return.
1850, ...	—	No return.
1851, ...	80	Lieutenant-Governor Cushman.
1852, ...	75	“ “ Cushman.
1853, ...	60	“ “ Huntington.
1854, ...	102	“ “ Plunkett.
1855, ...	68	“ “ Brown.
1856, ...	76	“ “ Benchley.
1857, ...	100	“ “ Benchley.
1858, ...	121	“ “ Trask.

S T A T E M E N T

OF THE NUMBER OF PRISONERS COMMITTED TO JAILS
AND HOUSES OF CORRECTION FOR DIFFERENT CLASSES
OF CRIME IN TEN YEARS, 1849-58; ALSO NUMBER OF
CRIMINAL CONVICTIONS FOR NINE YEARS.

TEN YEARS' TABLE,

*Exhibiting the number of Prisoners committed to Jails and Houses of Correction, for different classes of Crime,
compiled from the Annual Returns.*

CRIMES.	1849.	1850.	1851.	1852.	1853.	1854.	1855.	1856.	1857.*	1858.	Ten Years' Aggregate.
Murder, ...	10	15	11	19	29	39	53	41	42	35	294 †
Homicide, ...	8	-	2	2	-	4	-	†	3	5	24 †
Piracy, ...	†	†	†	†	†	5	-	†	†	2	7 †
Arson, ...	21	25	16	23	27	16	37	24	21	25	235 †
Rape, ...	14	6	14	9	10	17	9	16	16	12	123 †
Attempt at Rape, ...	†	†	†	†	†	†	†	2	8	14	24 †
Highway Robbery, ...	10	19	15	10	23	32	4	100	61	54	328 †
Burglary, ...	118	191	139	104	85	120	122	178	263	221	1,541 †
Perjury, ...	4	1	5	8	10	11	22	9	27	23	120 §
Forgery, ...	4	24	20	16	22	19	27	32	28	41	233
Making or passing Counterfeit Money, ...	26	24	44	13	69	31	27	34	35	119	422
Keeping Brothels, ...	74	86	97	72	99	93	101	121	121	177	1,041
Totals, ...	289	391	363	276	374	387	402	557	625	728	4,392

Adultery or Lewd Conduct, .	181	292	241	211	218	228	391	456	355	435	3,008
Assault, ...	807	1,135	877	943	1,290	1,366	1,816	1,682	1,488	1,562	12,966
Larceny, ...	1,490	1,600	1,457	1,506	1,659	1,607	2,305	2,137	2,029	2,320	18,110
Intemperance, ...	2,507	3,341	3,850	3,941	5,352	7,223	8,221	6,568	5,445	5,490	51,938
Violation of Liquor Law, .	†	†	†	†	†	†	†	†	†	938	938
Vagrancy, ...	228	245	220	215	187	213	326	242	300	327	2,503
All other offences, . . .	2,873	1,757	2,833	2,261	3,811	3,601	2,571	2,406	2,178	2,004	26,295
Totals, ...	8,086	8,370	9,478	9,077	12,517	14,238	15,630 [‡]	13,491	11,795	13,076	115,758
Grand Totals, , . . .	8,375	8,761	9,841	9,353	12,891	14,025	16,032	14,048	12,420	13,804	120,150

* 11 months.

† Question not asked in the form for the returns.

‡ All returned from the Jails.

§ All but 4 returned from the Jails.

¶ The aggregates for the several years included in this statement present an exaggerated view of the whole number of offenders, as explained in Note on page 597.

NINE YEARS' TABLE,

Exhibiting the number of Criminal Convictions in the Commonwealth, as returned by the several District-Attorneys.

OFFENCES.	1848.	1849.	1850.	1851.	1852.	1854.	1855.	1856.	1857.	Nine Years' Aggregate.
Against the person, feloniously, . . .	28	16	19	23	36	33	71	62	40	328
Against the person, not feloniously, . . .	192	222	264	213	208	276	261	221	232	2,089
Against property, with violence, . . .	90	115	168	117	149	142	139	130	214	1,264
Against property, without violence, . . .	321	393	400	432	382	364	372	268	339	3,271
Other offences, ...	1,046	1,210	1,056	1,323	668	1,153	1,107	614	928	9,105
Totals, ...	1,677	1,956	1,907	2,108	1,443	1,968	1,950	1,295	1,753	16,057

NOTE.—The period of time embraced in this Table is ten years, but no abstract of the returns for 1853 having been prepared, that year is omitted. Convictions for minor offences, when the judgment of Police Courts and Justices of the Peace have been final, are not included in this statement.

S T A T E M E N T

OF THE AVERAGE NUMBER OF CONVICTS IN THE STATE PRISON, AND NUMBER OF PARDONS GRANTED FOR TWENTY YEARS, 1839-58; ALSO, THE NUMBER OF PRISONERS THAT HAVE BEEN DISCHARGED FROM JAILS AND HOUSES OF CORRECTION BY ORDER OF COURT, OR OTHERWISE; TOGETHER WITH THE NUMBER THAT HAVE BEEN IN PRISON BEFORE FOR TEN YEARS, 1849-58.

TWENTY YEARS' TABLE,

Exhibiting the average number of Convicts in confinement at the State Prison, together with the number of Pardons granted, 1839-58.

Year.	Average number.	Pardoned.	Year.	Average number.	Pardoned.
1839, . . .	—	7	1849, . . .	320	16
1840, . . .	—	14	1850, . . .	411	10
1841, . . .	333	26	1851, . . .	466	13
1842, . . .	304	10	1852, . . .	483	20
1843, . . .	270	23	1853, . . .	484	22
1844, . . .	271	15	1854, . . .	493	26
1845, . . .	284	12	1855, . . .	483	26
1846, . . .	262	7	1856, . . .	455	27
1847, . . .	262	7	1857, . . .	440	29
1848, . . .	287	27	1858, . . .	469	26

TEN YEARS' TABLE,

Exhibiting the number of Prisoners discharged from the Jails and Houses of Correction by order of Court, number discharged as poor Convicts, number pardoned, number that have been in Prison before and the whole number committed for Crime; compiled from the Annual Returns for the years 1849-58, inclusive.

JAILS.

YEAR.	Number discharged by order of Court.	Number discharged as poor convicts, unable to pay fine and costs.	Number pardoned, including those discharged by overseers.	Number that have been in prison before for crime.	Whole number committed for crime.
1849, ...	1,006	} Question not asked.	} Question not asked.	166	5,345
1850, ...	865			202	5,558
1851, ...	671			366	6,666
1852, ...	507			156	6,168
1853, ...	937			84	9,325
1854, ...	584			139	9,900
1855, ...	886			177	11,435
1856, ...	272	} 1,715	} Question not asked.	570	9,118
1857, (11 months,) .	1,771			2,029	7,251
1858, ...	586			1,824	7,808
Totals, ...	8,085	3,919		5,713	78,574

HOUSES OF CORRECTION.

1849, ...	} Question not asked.	} Question not asked.	196	557	3,030
1850, ...			157	803	3,203
1851, ...			164	840	3,175
1852, ...			191	828	3,185
1853, ...			182	733	3,566
1854, ...			182	1,064	4,725
1855, ...			165	964	4,597
1856, ...	} 1,426	} Question not asked.	192	938	4,930
1857, (11 months,) .			188	1,329	5,169
1858, ...			267	1,281	5,996
Totals, ...		1,426	1,884	9,337	41,576

JAILS AND HOUSES OF CORRECTION.

YEAR.	Number discharged by order of Court.	Number discharged as poor convicts, unable to pay fine and costs.	Number pardoned, including those discharged by overseers.	Number that have been in prison before for crime.	Whole number committed for crime.
1849, ...	1,006	—	196	723	8,375
1850, ...	865	—	157	1,005	8,761
1851, ...	671	—	164	1,206	9,841
1852, ...	507	—	191	984	9,353
1853, ...	937	—	182	817	12,891
1854, ...	584	—	182	1,203	14,625
1855, ...	886	—	165	1,141	16,032
1856, ...	272	—	192	1,508	14,048
1857, (11 months,) .	1,771	1,715	188	3,358	12,420
1858, ...	586	3,630	267	3,105	13,804
Totals, ...	8,085*	5,345†	1,834‡	15,050§	120,150

* The "number discharged by order of Court" is not given in the returns of the jails at Ipswich, Northampton, and Worcester, for 1849; Edgartown and Worcester, for 1850; Greenfield, New Bedford, and Northampton, for 1851; Boston, Cambridge, and Northampton, for 1852; Barnstable, Cambridge, Concord, Ipswich, Lowell, and Provincetown, for 1853; Barnstable, Boston, Concord, Ipswich, Plymouth, and Springfield, for 1854; Boston, Greenfield, Nantucket, Newburyport, Provincetown, and Springfield, for 1855; Barnstable, Boston, Cambridge, Edgartown, New Bedford, Provincetown, and Springfield, for 1856; Cambridge, Concord, Lowell, Northampton, and Salem, for 1857.

† The "number discharged as poor convicts, unable to pay fine and costs," is not given in the returns of the jails at Concord and Salem, for 1857.

‡ The "number pardoned," is not given in the returns of the houses of correction at Barnstable, Lenox, and Northampton, for 1849; Barnstable, Greenfield, and Northampton, for 1850; Greenfield, Lenox, and Northampton, for 1851; Barnstable, for 1852; Springfield, for 1854; Barnstable, Nantucket, and Provincetown, for 1856; and Dedham, for 1857.

§ The "number that have been in prison before" is not given in the returns of the jails at Barnstable, Boston, Concord, Dedham, Edgartown, Nantucket, Worcester, and house of correction at Plymouth, for 1849; jails at Boston, Concord, Dedham, Edgartown, Lenox, Plymouth, and houses of correction at Greenfield, Lenox, and Plymouth, for 1850; jails at Boston, Cambridge, Concord, Dedham, Edgartown, Greenfield, New Bedford, Northampton, and houses of correction at Northampton and Plymouth, for 1851; jails at Barnstable, Boston, Cambridge, Concord, Nantucket, Newburyport, and Salem, and house of correction at Plymouth, for 1852; jails at Boston, Cambridge, Concord, Greenfield, Dedham,

Lowell, Taunton, Salem, Worcester, and house of correction at Worcester, for 1853; jails at Barnstable, Boston, Cambridge, Concord, Edgartown, New Bedford, Lowell, Plymouth, Salem, Springfield, Worcester, and houses of correction at Greenfield and Worcester, for 1854; jails at Boston, Cambridge, Dedham, Lawrence, Lowell, New Bedford, Plymouth, Springfield, Taunton, Worcester, and houses of correction at Greenfield, Northampton and Worcester, for 1855; jails at Boston, Dedham, Edgartown, Ipswich, Lowell, New Bedford, Northampton, Provincetown, Springfield, Worcester and houses of correction at Nantucket, New Bedford, Provincetown, and Worcester, for 1856; jails at Concord, Edgartown, Lawrence, New Bedford, Newburyport, Provincetown, Taunton, and houses of correction at Northampton and Provincetown, for 1857; jails at Cambridge, Concord, Lowell, New Bedford, Northampton, Worcester, and houses of correction at Cambridge, Ipswich, Northampton and Worcester, for 1858.

|| The united number of those committed to the jails and to houses of correction, presents an exaggerated view of the whole number of offenders, for the reason that many who have been committed to jails, and embraced in their returns, have, after trial, been committed to houses of correction for the same offence, and of course again enumerated in their returns. The number thus sent from jails to houses of correction was, in

1849,	.	.	.	.	.	.	.	.	.	468
1850,	.	.	.	.	.	.	.	.	.	566
1851,	.	.	.	.	.	.	.	.	.	490
1852,	.	.	.	.	.	.	.	.	.	455
1853,	.	.	.	.	.	.	.	.	.	543
1854,	.	.	.	.	.	.	.	.	.	588
1855,	.	.	.	.	.	.	.	.	.	696
1856,	.	.	.	.	.	.	.	.	.	596
1857, (11 months,)	.	.	.	.	.	.	.	.	.	722
1858,	.	.	.	.	.	.	.	.	.	789
10 years,	.	.	.	.	.	.	.	.	.	5,913

STATUTE PROVISIONS

For the discharge of Convicts in Jails and Houses of Correction otherwise than by a pardon or the expiration of sentence.

Whenever it shall appear to the overseers or directors of any house of correction, house of industry or workhouse, that any person there confined, on a conviction before any justice of the peace, of either of the offences mentioned in the fifth section [i. e. the offences of being a rogue, vagabond, an idle and dissolute person going about begging, a juggler, a common piper or fiddler, a stubborn child, a runaway, a common drunkard, common night-walker, a pilferer, a lewd, wanton and lascivious person in speech or behavior, a common railer or brawler or a person who neglects his calling or employment, misspends what he earns and does not provide for himself and family, venders of liquors, &c., a petty thief, or idle and disorderly person,] except stealing, has reformed and is willing and desirous to return to an orderly course of life, they may, in their discretion, by a written order, discharge such person from confinement; and if such person shall have been committed by the court of common pleas, the municipal court of the city of Boston, or any police court, he may be discharged by such courts respectively upon the recommendation of the overseers or directors.—*Rev. Stat., ch. 143, sect. 13.*

When any poor convict shall have been confined in prison in any county, except the county of Suffolk, for the space of three months, for fine and costs only, or for either of them, the jailer shall make report thereof, to any two justices of the peace—one of whom shall be of the quorum—and if they (i. e., the justices,) shall be satisfied that the statement in such report is true, and that the convict, since his conviction, has not had any estate, real or personal, with which he could have paid the sum for which he stood committed, they shall direct the sheriff to discharge such convict.—*Rev. Stat., ch. 145, sect 3.*

Revised Statutes, chapter 143, section 11, provides for the appointment of the overseers of the houses of correction.

Statutes 1852, section 113, provides for the same in the county of Suffolk.

CHANGE OF NAMES.

SECRETARY'S DEPARTMENT, 1859.

By the 256th chapter of the Acts of 1851, entitled "An Act to provide for the Change of Names of Persons," it is provided that "the judges of probate for the several counties shall annually, in the month of December, make a return to the office of the Secretary of the Commonwealth, of all changes of names made under and by virtue of this act, and such returns shall be published in a tabular form, with the statutes of each year." In compliance therewith, returns of the following changes of names have been received at this Department, as decreed by the several Judges of Probate and Judges of Probate and Insolvency for their respective counties, in the year 1858.

SUFFOLK COUNTY.

George R. Curran, takes the names of Stukely S. Wescott.

Caroline Tinkham Grinnell, takes the name of Caroline Grinnell Smith.

Michael Gibbs, junior, takes the name of Melville Shields Gibbs.

George Thomas Gillett, takes the name of George Thomas Phinney.

Mary McGregor, takes the name of Gertrude Eleanor Baker.

Newell Campbell Rogers, takes the name of Newell Rogers Campbell.

Hinman Stevens, takes the name of Hiram Stevens.

Minnie Stall, takes the name of Nellie Florine Barton.

Celia Maria Sawyer, takes the name of Celia Maria Hamilton.

Harriet Ann Webber, takes the name of Hattie Tarbox.

Charles Forbush Warren, takes the name of Jonathan Charles Warren.

ESSEX COUNTY.

February 2, 1858. Enoch S. Dole and his wife, of Rowley, adopt Mary Noonan, daughter of Daniel Noonan, of Steuben, Maine, and said Mary takes the name of Ella Dole. Eli O. Bartlett and his wife, of Marblehead, adopt Albert Knight, son of William Knight, of Gloucester, and said Albert takes the name of Eli Vickery Bartlett.

March 6. Amos Abbott, 2d, of Andover, takes the name of Amos Chandler Abbott.

March 30. Conrad Henser, of Ipswich, takes the name of Conrad Henser Brooks.

April 6. Charles Dunn and Margery Dunn, his wife, of Marblehead, and their minor children, Alexander W., Henrietta C., Thomas W., and Mary Ellen, take the name of Wilson.

June 8. Matthew E. MacDaniel and Mary Elizabeth MacDaniel, his wife, and their children, George Emery and Charles Frank, take the name of Daniel. Micajah R. Danforth, and his wife, of Bradford, adopt Elinor J. Brown, daughter of Joseph W. Brown, of Haverhill, and said Elinor takes the name of Nellie J. Danforth.

July 20. Ellen Kemble Oliver, daughter of Henry K. Oliver, of Lawrence, takes the name of Ellen Wendell Oliver.

November 2. Ira P. Brown and wife, of Lynn, adopt Mary Ann Meagher, daughter of James and Ann Meagher, and said Mary takes the name of Arietta Brown.

November 16. Horace L. Connolly, of Salem, takes the name of Horace Ingersoll.

MIDDLESEX COUNTY.

January 5, 1858. Henry Wight and wife, of Wayland, adopt James Richardson, a minor, and said James takes the name of George Wight.

January 26. Joseph A. Adams and wife, of Melrose, adopt Eleanor White, a minor, and said Eleanor takes the name of Ellen Metcalf Adams.

February 23. J. Brooks Leathe and wife, of Reading, adopt Priscilla Alley, a minor, and said Priscilla takes the name of Priscilla Augusta Leathe. Harris Welch and wife, of Charlestown, adopt George Harris Thompson, a minor, and said George takes the name of George Harris Welch.

March 23. Justus Richardson and wife, of Dracut, adopt George Albert Hayward, a minor, and said George takes the name of George Albert Hayward Richardson.

April 6. William Edward Tuckerman, of Lowell, takes the name of Edward Gustavus Tuckerman.

April 13. Myranda Dutton and his wife, of Carlisle, adopt Sarah Elizabeth Fletcher, a minor, and said Sarah takes the name of Sarah Elizabeth Dutton. George G. Fairbanks and his wife, of Somerville, adopt Angelia Leighton, a minor, and said Angelia takes the name of Annie Leighton Fairbanks.

May 11. Nathaniel G. Pearsons and his wife, of Lowell, adopt Mary Josephine Thomas, and said Mary takes the name of Mary Josephine Pearsons.

June 8. Daniel Raymond and his wife, of Lowell, adopt Lizzie Sophia Watts, a minor, and said Lizzie takes the name of Lizzie Sophia Raymond.

June 22. William E. Robbins and his wife, of Holliston, adopt Evangeline Farrington, a minor, and said Evangeline takes the name of Julia Maria Robbins. Sylvanus R. Wetherbee and his wife, of Newton, adopt Arethusa Jameson, a minor, and said Arethusa takes the name of Zilla Wetherbee. Lewis L. Whitney and his wife, of Woburn, adopt Henry Bigelow Somes, a minor, and said Henry takes the name of Lewis Henry Whitney.

August 10. Levi Goodnough and his wife, of Sudbury, adopt Mary Grace Moore, a minor, and said Mary takes the name of Mary Grace Goodnough.

October 5. Almon Twing and his wife, of Lincoln, adopt Emma Loheed, a minor, and said Emma takes the name of Hattie Twing.

October 26. George M. Pierce and his wife of Holliston, adopt Ella Faxon, a minor, and said Ella takes the name of Ella Jane Pierce.

November 9. Esther Sawyer, of Lowell, adopts Frances Ellen Wight, a minor, and said Frances takes the name of Frances Ellen Sawyer.

November 23. Eliza Stratton, of Charlestown, takes the name of Eliza Tufts. Joseph Simonds and his wife, of Cambridge, adopt Catherine Clinton Porter, a minor, and said Catherine takes the name of Catherine Porter Simonds. Joseph Birnstill and his wife, of Newton, adopt Gustav Ernst Friedrich Regen, a minor, and said Gustav takes the name of Gustav Ernst Friedrich Regen Birnstill.

December 7. George F. Butterfield and his wife of Lowell, adopt Mary Elizabeth Robinson, a minor, and said Mary takes the name of Mary Elizabeth Butterfield.

December 28. Martin Merkle and his wife, of Cambridge, adopt Elizabeth Locke, a minor, and said Elizabeth takes the name of Elizabeth Merkle.

WORCESTER COUNTY.

January 5, 1858. Charles Knowlton, and Maria L. Knowlton, his wife, of Holden, adopt Willie Fairbanks Hubbard, and said Willie takes the name of Willie Fairbanks Knowlton. Charles H. Ballard, and Eliza J. Ballard, his wife, of Worcester, adopt Frances L. Simpson, and said Frances takes the name of Fannie Louisa Ballard.

March 2. Ephraim W. Houghton, and Caroline L. Houghton, his wife, of Harvard, adopt Ella Girtrude Jewett, and said Ella takes the name of Ella Girtrude Houghton.

April 6. William Walkden, and Betty Walkden, his wife, of Worcester, adopt Mary Frances Cunliffe, and said Mary takes the name of Mary Frances Walkden. John Welch, and Mary Jane Welch, his wife, of Worcester, adopt Thomas Conroy, and said Thomas takes the name of Thomas Conroy Welch. Rodolphus A. Johnson, and Lurena Johnson, his wife, of Upton, adopt Dianna Maria Lurena Wood, and said Dianna takes the name of Dianna Maria Lurena Johnson.

June 1. Isaac Mundell, and Eliza Mundell, his wife, of Hubbardston, adopt Silas Holt, and said Silas takes the name of Henry Isaac Hilton Mundell. James F. Estey, and Emily H. Estey, his wife, of Worcester, adopt Ann Eliza Jones, and said Ann takes the name of Ann Jones Estey.

August 3. Sarah B. Jackman, of Warren, takes the name of Sarah B. Whipple.

October 5. Alvin Hall, and Emily F. Hall, his wife, of Worcester, adopt Henrietta Evelyn Morse, and said Henrietta takes the name of Henrietta Evelyn Morse Hall. Gilbert Pierce, and Mary Ann Pierce, his wife, of Worcester, adopt Jane Elizabeth Rice and Genette Rosella Rice, and the said Jane and Genette take the respective names of Jane Elizabeth Pierce and Genette Rosella Pierce. Benjamin H. Folger, and Delia H. Folger, his wife, of Milford, adopt Grace Thatcher, and said Grace takes the name of Minnie Idella Folger.

December 7. Almirah B. Davenport, of Mendon, takes the name of Almirah B. Cummings.

HAMPSHIRE COUNTY.

January 5, 1858. Thomas Cogan, a minor, of Ware, takes the name of Thomas Raymond.

February 2. James R. Selman and his wife, adopt Willie Duane Ward, a minor, of Northampton, and said Willie takes the name of Willie Duane Selman.

April 6. Ziba Woods and his wife, of Ware, adopt Dwight Thomas Robbins, a minor, and said Dwight takes the name of Thomas Dwight Woods.

May 4. Henry Hawes and his wife, of Middlefield, adopt Isabella Fowler, a minor, and said Isabella takes the name of Lida Belle Hawes.

August 3. Ira O. Burleigh and his wife, of Huntington, adopt Mary Ann Savary, and said Mary takes the name of Helen Burleigh.

December 7. George Franklin, of Belchertown, a minor, takes the name of George Franklin Amidon.

FRANKLIN COUNTY.

April 27, 1858. James Wheaton and his wife, of Wendell, adopt Clarence Alburtus Taylor, a minor, and said Clarence takes the name of Clarence Alburtus Wheaton.

May 11. Edwin Ware, of Deerfield, adopts Frances S. Stebbins, and said Frances takes the name of Fannie Stebbins Ware. Ralph Wilhelmi and his wife, of Deerfield, adopt William Garrotte, Jr., a minor, and said William takes the name of Edwin Max Wilhelmi.

BERKSHIRE COUNTY.

January 5, 1858. Chester R. Cornell, adopts Lucy Jane Sparks, and said Lucy takes the name of Lucy J. Cornell. Thomas Gamble, adopts George Wilson, and said George takes the name of David W. Gamble.

January 13. Waterman Brown, adopts Charity Adelia Brennin, and said Charity takes the name of Adelia Brown.

March 2. Jonathan Gross Barnard, takes the name of John Gross Barnard.

April 6. David Stilson, adopts Juliette Neal, and said Juliette takes the name of Juliette Stilson.

May 24. Michael Flannagan, takes the name of Charles Pitt Frissell.

July 27. John Proctor, adopts Sarah Jane Fleming, and said Sarah takes the name of Sarah J. Proctor.

October 13. Sylvanus Clark, adopts George Stillman Hart, and Elliot Eugene Childs, and said George and Elliot take the names of George Stillman Clark, and Elliot Eugene Clark.

CHANGE OF NAMES.

NORFOLK COUNTY.

May 8, 1858. Theodore Hooton, of Dorchester, a minor, takes the name of Walter Henry Brock.

June 5. Mary Louisa Walker, of Canton, a minor, takes the name of Mary Louisa Chase.

July 6. John Henry Brightman, of Medfield, a minor, takes the name of Albert Davis Kingsbury.

PLYMOUTH COUNTY.

Sidney T. Ford, of Duxbury, takes the name of Elijah T. Ford.

BARNSTABLE COUNTY.

Charles H. Haskell, of Dennis, takes the name of Charles H. Swift.

Cyreno Franklin Pierce, of Truro, takes the name of Israel Franklin Pierce.

Freeman Ryder, 2d, of Harwich, takes the name of Freeman Gage.

Willis G. Hallet, of Yarmouth, takes the name of Simeon Hallet.

Henry Baker, of Barnstable, takes the name of Henry H. Baker.

Mary Caroline Whelden, of Barnstable, takes the name of Mary Caroline Bursley.

No application for change of name has been made to the Judges of Probate, or Judges of Probate and Insolvency for the counties of Hampden, Bristol, Dukes and Nantucket, during the year 1858.

MEMBERS OF THE THIRTY-SIXTH CONGRESS.

SENATORS.

CHARLES SUMNER, *of Boston.*

HENRY WILSON, *of Natick.*

REPRESENTATIVES.

District I.—THOMAS D. ELIOT, *of New Bedford.*

II.—JAMES BUFFINGTON, *of Fall River.*

III.—CHARLES F. ADAMS, *of Quincy.*

IV.—ALEXANDER H. RICE, *of Boston.*

V.—ANSON BURLINGAME, *of Cambridge.*

VI.—JOHN B. ALLEY, *of Lynn.*

VII.—DANIEL W. GOOCH, *of Melrose.*

VIII.—CHARLES R. TRAIN, *of Framingham.*

IX.—ELI THAYER, *of Worcester.*

X.—CHARLES DELANO, *of Northampton.*

XI.—HENRY L. DAWES, *of Adams.*

JUSTICES OF THE SUPREME JUDICIAL COURT.

CHIEF JUSTICE.

LEMUEL SHAW, *of Boston.*

ASSOCIATE JUSTICES.

CHARLES A. DEWEY, *of Northampton.*

THERON METCALF, *of Boston.*

GEORGE T. BIGELOW, *of Boston.*

PLINY MERRICK, *of Boston.*

EBENEZER R. HOAR, *of Concord.*

JUSTICES OF THE SUPERIOR COURT.

CHIEF JUSTICE.

CHARLES ALLEN, *of Worcester.*

ASSOCIATE JUSTICES.

JULIUS ROCKWELL, *of Pittsfield.*

OTIS P. LORD, *of Salem.*

MARCUS MORTON, JR., *of Andover.*

EZRA WILKINSON, *of Dedham.*

HENRY VOSE, *of Springfield.*

SETH AMES, *of Cambridge.*

THOMAS RUSSELL, *of Boston.*

JOHN P. PUTNAM, *of Boston.*

LINCOLN F. BRIGHAM, *of New Bedford.*

THE
CIVIL GOVERNMENT

OF THE

Commonwealth of Massachusetts,

AND OFFICERS IMMEDIATELY CONNECTED THEREWITH,

FOR THE POLITICAL YEAR, 1859.

CIVIL GOVERNMENT—1859.

HIS EXCELLENCY

NATHANIEL P. BANKS,
GOVERNOR.

HIS HONOR

ELIPHALET TRASK,
LIEUTENANT-GOVERNOR.

COUNCIL—(BY DISTRICTS).

I.—JACOB SLEEPER,	V.—LYMAN DIMOCK,
II.—GEORGE COGSWELL,	VI.—AARON C. MAYHEW,
III.—WILLIAM J. EAMES,	VII.—J. McKEAN CHURCHILL,
IV.—AUSTIN L. ROGERS,	VIII.—FRANKLIN AMES.

OLIVER WARNER,

Secretary of the Commonwealth.

CHAS. W. LOVETT, *1st Clerk.* ALBERT L. FERNALD, *2d Clerk.*

MOSES TENNEY, JR.,

Treasurer and Receiver-General of the Commonwealth.

DANIEL H. ROGERS, *1st Clerk.* JOHN H. SMITH, *2d Clerk.*

CHARLES WHITE,

Auditor of Accounts.

WILLIAM EVELETH, *Clerk.*

SAMUEL O. UPHAM,

Messenger to the Governor and Council.

GENERAL COURT,

ARRANGED IN ACCORDANCE WITH THE DISTRICT SYSTEM OF 1857, WITH THE
NAMES AND RESIDENCES OF MEMBERS.

SENATE.

President—CHARLES A. PHELPS.

District.	Name of Senator.	Residence.
First Suffolk, . . .	Nehemiah Boynton, . . .	Chelsea.
Second “	Oliver Frost, ...	Boston.
Third “ . . .	Thomas P. Rich, ...	“
Fourth “ . . .	Charles A. Phelps, ...	“
Fifth “ . . .	George Odiorne, ...	“
First Essex, ...	William Fabens, ...	Marblehead.
Second “	J. B. F. Osgood, ...	Salem.
Third “	George L. Davis, ...	North Andover.
Fourth, “	Benjamin Evans, ...	Salisbury.
Fifth, “	Warren Tilton, ...	Beverly.
First Middlesex, . .	Eugene L. Norton, ...	Charlestown.
Second “	John M. S. Williams, ...	Cambridge.
Third “	John W. Bacon, ...	Natick.
Fourth, “	George M. Brooks, ...	Concord.
Fifth, “	Horace Conn, ...	Woburn.
Sixth, “	Benjamin F. Butler, ...	Lowell.
Central Worcester, .	Dexter F. Parker, ...	Worcester.

District.	Name of Senator.	Residence.
South-East Worcester,	John George Metcalf, . .	Mendon.
South-West “ .	William Upham, ...	Spencer.
West “ .	Charles Field, ...	Athol.
North-East “ .	William D. Peck, ...	Sterling.
East “ .	Abraham M. Bigelow, . .	Grafton.
Hampshire, ...	Horatio G. Knight, . . .	Easthampton.
Franklin, ...	Carver Hotchkiss, ...	Shelburne.
Hampshire & Franklin,	Davis Goddard, ...	Orange.
West Hampden, . .	Aaron Bagg, ...	West Springfield.
East “ . .	George Walker, ...	Springfield.
North Berkshire, . .	James T. Robinson,* . . .	Adams.
South “ . .	John Branning, ...	Lee.
North Norfolk, . . .	Edward G. Parker, ...	Brookline.
East “ . . .	Charles A. French, ...	Stoughton.
West “ . . .	Milton M. Fisher, ...	Medway.
North Bristol, . . .	Homer M. Daggett, ...	Attleborough.
South “ . . .	Joseph W. Cornell, ...	New Bedford.
West “ . . .	Robert T. Davis, ...	Fall River.
North Plymouth, . .	Perez Simmons, ...	Hanover.
South “ . . .	Ezekiel R. Sawin, ...	Fairhaven.
Middle “ . . .	William T. Davis, ...	Plymouth.
Cape, ...	John W. Atwood, ...	Chatham.
Island, ...	Ichabod N. Luce, ...	Edgartown.

STEPHEN N. GIFFORD, *Clerk.*
 JACOB M. MANNING, *Chaplain.*

WILLIAM M. WISE, *Door-keeper.*
 SAMUEL S. WELLS, *Assistant Door-keeper.*
 JOHN MORISSEY, *Sergeant-at-Arms.*

* Resigned and SAMUEL W. BOWERMAN, of Adams, chosen to fill vacancy.

HOUSE OF REPRESENTATIVES.

Speaker—C H A R L E S H A L E .

COUNTY OF SUFFOLK.

District.	Town or Ward,	Name of Representative.	Residence.
1st,	Ward 1, Boston, . {	George W. Parmenter, Martin Griffin, . . .	Boston. “
2d,	Ward 2, Boston, . {	Amos A. Dannels, . Stephen N. Stockwell, Edward F. Porter, .	Boston. “ “
3d,	Ward 3, Boston, . {	Asa D. Pattee, . . . John C. Tucker, . .	Boston. “
4th,	Ward 4, Boston, . {	John H. Wilkins, . . Charles Hale, . . .	Boston. “
5th,	Ward 5, Boston, . {	Edward Sands, . . . Frederick Whiton, .	Boston. “
6th,	Ward 6, Boston, . {	Thornton K. Lothrop, Martin Brimmer, . .	Boston. “
7th,	Ward 7, Boston, . {	Samuel Hatch, . . . Patrick Riley, . . .	Boston. “
8th,	Ward 8, Boston, . {	George A. Shaw, . . Thomas H. Russell, .	Boston. “
9th,	Ward 9, Boston, . {	Alex. H. Twombly, . Thomas D. Morris, .	Boston. “
10th,	Ward 10, Boston, . {	Nathaniel C. Nash, . Moses Kimball, . .	Boston. “
11th,	Ward 11, Boston, . {	Pliny Nickerson, . . Amos B. Merrill, . .	Boston. “
12th,	Ward 12, Boston, . {	Daniel Hall, . . . Judah Sears, . . . Benjamin Lewis, . .	Boston. “ “

HOUSE OF REPRESENTATIVES.

COUNTY OF SUFFOLK—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
13th,	{ Chelsea, ... } { North Chelsea, . . . } { Winthrop, ... }	John Bent, ... Mellen Chamberlain, .	Chelsea. “

COUNTY OF ESSEX.

1st,	{ Amesbury, ... } { Salisbury, ... } { Newburyport, . . . }	Winthrop O. Evans, . Elbridge M. Morse, .	Newburyport. Amesbury.
2d,	Andover, ...	William Chickering, .	Andover.
3d,	{ Beverly, ... } { Wenham, ... } { Topsfield, ... }	James Hill, ... Thomas A. Morgan, .	Beverly. “
4th,	Danvers, ...	Francis P. Putnam, .	Danvers.
5th,	{ Essex, ... } { Manchester, . . . }	Luther Allen, . . .	Manchester.
6th,	{ Georgetown, . . . }	Edwin B. George, .	Groveland.
7th,	Gloucester, ... {	John J. Babson, . . . Jeremiah R. Cook, .	Gloucester. “
8th,	Haverhill, ... {	Nathan S. Kimball, . James Russell, . . .	Haverhill. “
9th,	{ Ipswich, ... } { Hamilton, ... }	Ebenezer Cogswell, .	Ipswich.
10th,	{ Wards 3 and 4, Law- } { rence, ... }	A. J. French, ...	Lawrence.
11th,	{ Wards 1, 2, and 6, } { Lawrence, ... }	George W. Benson,*	Lawrence.
12th,	Wards 2 and 5, Lynn,	John Lovejoy, . . .	Lynn.
13th,	{ Wards 1, 6, and 7, } { Lynn, ... }	Dean Peabody, . . .	Lynn.
14th,	{ Marblehead & Ward } { 5, Salem, . . . }	Thomas D. Hamson, . Benj. G. Hathaway, .	Marblehead. “

* Deceased.

COUNTY OF ESSEX—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
15th,	{ Methuen and Ward 5, } { Lawrence, . . . }	George W. Butters, .	Methuen.
16th,	{ Nahant and Ward 4, } { Lynn, . . . }	Gustavus Atwill, . .	Lynn.
17th,	{ Newbury, ... } { West Newbury, . . } { Rowley, ... }	Gorham P. Sargent, .	Newbury.
18th,	{ Wards 1 and 2, New- } { buryport, . . . }	Caleb Cushing, . .	Newburyport.
19th,	{ Wards 3, 4, and 5, } { Newburyport, . }	Rich'd S. Spofford, Jr.,	Newburyport.
20th,	{ Bradford, ... } { North Andover, . . } { Boxford, ... }	Samuel Raymond, .	North Andover.
21st,	Rockport, ...	Henry T. Lowe, . .	Rockport.
22d,	Wards 1 & 3, Salem,	George Upton, . . .	Salem.
23d,	{ Wards 2, 4, and 6, } { Salem, ... }	Stephen A. Chase, .	Salem.
		Charles W. Upham, .	"
24th,	{ Saugus, ... } { Lynnfield, ... } { Middleton, ... }	Benjamin Howe, . .	Middleton.
25th,	South Danvers, . .	Eben S. Poor, . . .	South Danvers.
26th,	{ Swampscott & Ward } { 3, Lynn, ... }	Oliver M. Stacey, .	Lynn.

COUNTY OF MIDDLESEX.

1st,	Ward 1, Charlestown,	Edward Lawrence,* .	Charlestown.
2d,	{ Wards 2 & 3, Charles- } { town, ... }	Joseph Caldwell, . .	Charlestown.
		Lyman Pray, ...	"
		James F. Dwinell, .	"
3d,	Somerville, ...	Isaac F. Shepard, . .	Somerville.
4th,	Malden, ...	John Q. A. Griffin, .	Malden.

* Resigned, and Ebenezer Barker chosen to fill vacancy.

COUNTY OF MIDDLESEX—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
5th,	Medford, ...	Elisha Hayden, . .	Medford.
6th,*	{ West Cambridge, . . } Winchester, ... }	Oliver R. Clark, . .	Winchester.
7th,	Cambridge, ... {	William T. Richardson, Alanson Bigelow, . . Nathan K. Noble, . .	Cambridge. “ “
8th,	{ Newton, ... } Brighton, ... }	Thomas Rice, Jr., . . Edward J. Collins, . .	Newton. “
9th,*	{ Watertown, ... } Waltham, ... }	Joseph Crafts, . . . Josiah Rutter, . . .	Watertown. Waltham.
10th,	{ Concord, ... } Lincoln, ... } Weston, ... }	George W. Warren, .	Weston.
11th,	Natick, ...	Benjamin F. Ham, .	Natick.
12th,	{ Holliston, ... } Sherborn, ... }	Nathaniel Dowse, . .	Sherborn.
13th,	{ Ashland, ... } Hopkinton, ... }	William F. Ellis, . .	Ashland.
14th,	Framingham, . . .	James W. Brown, .	Framingham.
15th,	Marlborough, . . .	John Phelps, . . .	Marlborough.
16th,	{ Stow, ... } Sudbury, ... } Wayland, ... }	Benjamin W. Gleason,	Stow.
17th,	{ Acton, ... } Boxborough, ... } Littleton, ... } Carlisle, ... }	Shattuck Hartwell, .	Littleton.
18th,	{ Burlington, ... } Bedford, ... } Lexington, ... }	A. W. Crowninshield,	Lexington.
19th,	Woburn, ...	Nathan Wyman, . .	Woburn.
20th,	{ South Reading, . . . } Melrose, ... } Stoneham, ... }	Lorin L. Fuller, . . J. Parker Gould, . .	Melrose. Stoneham.

* Town of Belmont incorporated 1859, embracing portions of Districts 6 and 9.

COUNTY OF MIDDLESEX—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
21st,	{ Reading, . . . } { North Reading, . . }	Stillman E. Parker, .	Reading.
22d,	{ Wilmington, . . . } { Tewksbury, . . . } { Billerica, . . . }	Jacob Coggin, . . .	Tewksbury.
23d,	{ Wards 1, 2, and 5, { { Lowell, . . . }	Marcus A. Thomas, . Sullivan Tay, . . . John C. Woodward, .	Lowell. " "
24th,	{ Wards 3, 4, and 6, { { Lowell, . . . }	Tappan Wentworth, . Walter Burnham, . . John A. Goodwin, .	Lowell. " "
25th,	{ Chelmsford, . . . } { Dracut, . . . } { Tyngsborough, . . }	Nathan B. Edwards, .	Chelmsford.
26th,	{ Shirley, . . . } { Groton, . . . } { Dunstable, . . . } { Westford, . . . } { Pepperell, . . . }	James P. Longley, . Charles Babbidge, .	Shirley. Pepperell.
27th,	{ Townsend, . . . } { Ashby, . . . }	Noah Ball, . . .	Townsend.

COUNTY OF WORCESTER.

1st,	{ Ashburnham, . . . } { Winchendon, . . . }	J. D. Crosby, . . .	Ashburnham.
2d,	{ Athol, . . . } { Royalston, . . . }	George Whitney, . .	Royalston.
3d,	{ Dana, . . . } { Petersham, . . . } { Phillipston, . . . }	Russell Carruth, . .	Phillipston.
4th,	{ Templeton, . . . } { Hubbardston, . . . }	Aaron Greenwood, .	Hubbardston.
5th,	{ Gardner, . . . } { Westminster, . . . }	William Mayo, . . .	Westminster.

HOUSE OF REPRESENTATIVES.

COUNTY OF WORCESTER—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
6th,	{ Fitchburg, ... } { Leominster, ... } { Sterling, ... } { Lunenburg, ... }	Amasa Norcross, . . Edwin Upton, . . . Charles L. Joslin, . .	Fitchburg. " Leominster.
7th,	{ Harvard, ... } { Bolton, ... } { Berlin, ... }	George E. Burt, . .	Harvard.
8th,	{ Clinton, ... } { Lancaster, ... }	John M. Washburn, .	Lancaster.
9th,	{ Princeton, ... } { Rutland, ... } { Oakham, ... }	Solon S. Hastings, .	Princeton.
10th,	{ Barre, ... } { Hardwick, ... }	Charles Brimblecom, .	Barre.
11th,	{ Warren, ... } { West Brookfield, . . } { New Braintree, . . }	Nelson Carpenter, .	Warren.
12th,	{ North Brookfield, . } { Brookfield, ... }	Luther Stowell, . .	Brookfield.
13th,	{ Leicester, ... } { Spencer, ... }	John L. Bush, . . .	Spencer.
14th,	{ West Boylston, . . } { Holden, ... } { Paxton, ... }	Ralph E. Bigelow, .	Paxton.
15th,	{ Shrewsbury, . . . } { Northborough, . . } { Boylston, ... }	Nathan W. Williams,	Shrewsbury.
16th,	{ Westborough, . . . } { Southborough, . . }	Jonas Fay, ...	Southborough.
17th,	Grafton, ...	Gilbert C. Taft, . .	Grafton.
18th,	{ Northbridge, . . . } { Upton, ... }	Charles P. Whitin, .	Northbridge.
19th,	Milford, ... {	James H. Barker, . . Elbridge Mann, . . .	Milford. "

COUNTY OF WORCESTER—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
20th,	{ Uxbridge, ... } Mendon, ... }	Alanson S. Freeman,	Mendon.
21st,	Blackstone, ...	John B. White, . .	Blackstone.
22d,	{ Webster, ... } Douglas, ... }	Asher Joslin, . . .	Webster.
23d,	{ Southbridge, ... } Dudley, ... }	Ebenezer Davis, . .	Dudley.
24th,	{ Charlton, ... } Sturbridge, ... }	Henry Haynes, Jr., .	Sturbridge.
25th,	{ Oxford, ... } Sutton, ... } Millbury, ... }	Ira Merriam, . . . Hosea Crane, . . .	Oxford. Millbury.
26th,	{ Auburn, and Ward } 6, Worcester, . . }	Marcus Barrett, . .	Auburn.
27th,	{ Wards 1 and 2, Wor- } cester, ... }	Albert Tolman, . .	Worcester.
28th,	{ Wards 3 and 8, Wor- } cester, ... }	Henry C. Rice, . .	Worcester.
29th,	{ Wards 4 and 5, Wor- } cester, ... }	Charles B. Pratt, . .	Worcester.
30th,	Ward 7, Worcester, .	George Chandler, . .	Worcester.

COUNTY OF HAMPSHIRE.

1st,	{ Easthampton, ... } Hatfield, ... } Northampton, ... } Southampton, ... }	William H. Dickinson, William F. Arnold, .	Hatfield. Northampton.
2d,	{ Chesterfield, ... } Huntington, ... } Westhampton, ... } Williamsburg, ... }	Albert D. Sanders, .	Williamsburg.
3d,	{ Cummington, ... } Goshen, ... } Middlefield, ... } Plainfield, ... } Worthington, ... }	Spencer Shaw, . . .	Cummington.

HOUSE OF REPRESENTATIVES.

COUNTY OF HAMPSHIRE—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
4th,	{ Hadley, ... } { South Hadley, ... }	Peregrine Waters, .	South Hadley.
5th,	{ Amherst, ... } { Granby, ... } { Pelham, ... }	Lorenzo S. Nash, . .	Granby.
6th,	{ Belchertown, ... } { Enfield, ... } { Greenwich, ... } { Prescott, ... } { Ware, ... }	Charles L. Washburn, Liberty Crosett, . .	Belchertown. Prescott.

COUNTY OF HAMPDEN.

1st,	{ Brimfield, ... } { Monson, ... } { Holland, ... } { Wales, ... }	Paul W. Paige, . .	Brimfield.
2d,	Palmer, ...	Henry Scism, . . .	Palmer.
3d,	{ Wilbraham, ... } { Longmeadow, ... }	Randolph Stebbins, .	Longmeadow.
4th,	{ Wards 1 & 2, Spring- field, ... }	Joseph Stone, . . .	Springfield.
5th,	{ Wards 3 & 4, Spring- field, ... }	Philo F. Wilcox, . .	Springfield.
6th,	{ Wards, 5, 6, 7 and 8, } { Springfield, ... }	Otis A. Seamans, . .	Springfield.
7th,	{ Chicopee, ... } { Ludlow, ... }	George M. Stearns, . Albert Fuller, . . .	Chicopee. Ludlow.
8th,	{ Holyoke, ... } { West Springfield, ... }	George L. Wright, .	W. Springfield.
9th,	{ Agawam, ... } { Southwick, ... } { Granville, ... }	Elisha F. Miner, . .	Granville.
10th,	Westfield, ...	Addison Gage, . . .	Westfield.

COUNTY OF HAMPDEN—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
11th,	{ Chester, ... } { Blandford, ... } { Tolland, ... } { Montgomery, ... } { Russell, ... }	David Cannon, . .	Chester.

COUNTY OF FRANKLIN.

1st,	{ Bernardston, ... } { Colrain, ... } { Greenfield, ... } { Gill, ... } { Leyden, ... } { Shelburne, ... }	Hugh B. Miller, . . George D. Wells, . .	Colrain. Greenfield.
2d,	{ Buckland, ... } { Charlemont, ... } { Heath, ... } { Monroe, ... } { Rowe, ... }	Stephen Bates, . . .	Charlemont.
3d,	{ Ashfield, ... } { Conway, ... } { Hawley, ... }	Nathan Knowlton, .	Ashfield.
4th,	{ Deerfield, ... } { Whately, ... }	William H. Fuller, .	Whately.
5th,	{ Leverett, ... } { Shutesbury, ... } { Sunderland, ... } { Wendell, ... }	William W. Russell, .	Sunderland.
6th,	{ Erving, ... } { Montague, ... } { Northfield, ... }	Wright Stratton, . .	Northfield.
7th,	{ New Salem, ... } { Orange, ... } { Warwick, ... }	William T. Freeman.	New Salem.

HOUSE OF REPRESENTATIVES.

COUNTY OF BERKSHIRE.

District.	Town or Ward.	Name of Representative.	Residence.
1st,	{ Hancock, ... }	William T. Filley, .	Lanesborough.
	{ Lanesborough, . . . }		
	{ New Ashford, . . . }		
	{ Williamstown, . . . }		
2d,	{ Adams, ... }	William H. Tyler, 2d, Sylvander Johnson, .	Adams. “
	{ Cheshire, ... }		
	{ Clarksburg, ... }		
	{ Florida, ... }		
	{ Savoy, ... }		
3d,	{ Pittsfield, ... }	John A. Walker, . .	Pittsfield. “
	{ Dalton, ... }		
	{ Richmond, ... }		
4th,	{ Becket, ... }	Henry D. Lyman, .	Hinsdale.
	{ Hinsdale, ... }		
	{ Peru, ... }		
	{ Washington, ... }		
	{ Windsor, ... }		
5th,	{ Lenox, ... }	E. W. B. Canning, .	Stockbridge.
	{ Stockbridge, ... }		
	{ West Stockbridge, . }		
6th,	{ Lee, ... }	John M. Northrop, .	Tyringham.
	{ Tyringham, ... }		
7th,	{ Great Barrington, . }	Increase Sumner, . .	Gt. Barrington.
	{ Alford, ... }		
	{ Monterey, ... }		
8th,	{ New Marlborough, . }	Orlo Burt, ...	Sandisfield.
	{ Sandisfield, ... }		
	{ Otis, ... }		
9th,	{ Sheffield, ... }	Calvin Benjamin, . .	Egremont.
	{ Mount Washington, . }		
	{ Egremont, ... }		

COUNTY OF NORFOLK.

District.	Town or Ward.	Name of Representative.	Residence.
1st,	Dedham, ...	Ezra W. Taft, ...	Dedham.
2d,	West Roxbury, . . .	William Maccarty, . .	West Roxbury.
3d,	Brookline, ...	Thomas Parsons, . . .	Brookline.
4th,	Roxbury, ... {	Roland Worthington, .	Roxbury.
		Charles W. Bryant, . .	"
		Robert C. Nichols, . .	"
5th,	Dorchester, ... {	Edward H. R. Ruggles, .	Dorchester.
		George Rankin, ...	"
6th,	Quincy, ...	William S. Morton, . .	Quincy.
7th,	Braintree, ...	William L. Walker, . .	Braintree.
8th,	Weymouth, ... {	Daniel Lovell, ...	Weymouth.
		Elias S. Beals, ...	"
9th,	Randolph, ...	Daniel Howard, ...	Randolph.
10th,	Stoughton, ...	William H. Tucker, . .	Stoughton.
11th,	{ Canton, ... }	John S. Eldridge, . . .	Canton.
	{ Milton, ... }	Amasa D. Bacon, . . .	Sharon.
	{ Walpole, ... }		
	{ Sharon, ... }		
12th,	{ Foxborough, ... }	Edward C. Craig, . . .	Wrentham.
	{ Wrentham, ... }	William H. Temple, . .	Medway.
	{ Medway, ... }		
13th,	{ Franklin, ... }	Horace Rockwood, . . .	Bellingham.
	{ Bellingham, ... }		
14th,	{ Needham, ... }	Henry Horton, ...	Dover.
	{ Medfield, ... }		
	{ Dover, ... }		

COUNTY OF BRISTOL.

1st,	{ Pawtucket, ... }	William W. Blodgett, .	Pawtucket.
	{ Attleborough, ... }	William D. Earl, . . .	Attleborough.
2d,	{ Mansfield, ... }	Daniel S. Cobb, ...	Norton.
	{ Norton, ... }		

HOUSE OF REPRESENTATIVES.

COUNTY OF BRISTOL—Continued.

District.	Town or Ward.	Name of Representative.	Residence.
3d,	{ Easton, ... } { Raynham. }	John D. G. Williams,	Raynham.
4th,	Taunton, ... {	Henry H. Fox, . . . Henry Sproat, . . . Elisha Copeland, . .	Taunton. " "
5th,	{ Rehoboth, ... } { Seekonk, ... }	John C. Marvel, . .	Rehoboth.
6th,	{ Dighton, ... } { Somerset, ... } { Swanzey, ... }	Wm. Lawton Slade, .	Somerset.
7th,	Fall River, ... {	S. C. Wrightington, . Thomas T. Potter, .	Fall River. "
8th,	Westport, ...	Ezra P. Brownell, . .	Westport.
9th,	Dartmouth, ...	Nathaniel Potter, Jr.,	Dartmouth.
10th,	{ Wards 1 and 2, New } { Bedford, ... }	Alanson Borden, . . Sabin P. Chamberlain,	New Bedford. "
11th,	{ Wards 3, 4, 5 and 6, } { New Bedford, . . . }	Samuel Watson, . . Nathan B. Gifford, . Augustus L. West. .	New Bedford. " "
12th,	{ Berkley, ... } { Freetown, ... } { Fairhaven, ... }	William S. Crane, . . Martin L. Eldridge, .	Berkley. Fairhaven.

COUNTY OF PLYMOUTH.

1st,	{ Hull, ... } { Cohasset, ... } { Scituate, ... }	John Burnham, . .	Cohasset.
2d,	Hingham, ...	Demerick Marble, .	Hingham.
3d,	{ South Scituate, . . . } { Hanover, ... }	Benjamin F. Burgess,	Hanover.
4th,	{ Marshfield, ... } { Pembroke, ... }	Peter Salmond, . .	Pembroke.

COUNTY OF PLYMOUTH—Continued.

District	Town or Ward.	Name of Representative.	Residence.
5th,	{ Duxbury, ... } Kingston, ... }	Job W. Drew, . . .	Kingston.
6th,	{ Plymouth, ... } Carver, ... }	E. C. Sherman, . . Samuel H. Doten, . .	Plymouth. “
7th,	{ Wareham, ... } Marion, ... }	Marshall E. Simmons,	Marion.
8th,	{ Mattapoisett, ... } Rochester, ... } Lakeville, ... }	Job T. Tobey,* . .	Lakeville.
9th,	Middleborough, . .	Everett Robinson, .	Middleborough.
10th,	{ Bridgewater, ... } West Bridgewater, . }	Jarvis D. Burrell, .	W. Bridgewater.
11th,	{ East Bridgewater, . } North Bridgewater, }	Thomas Conant, . . Edw. Southworth, Jr.,	E. Bridgewater. N. Bridgewater.
12th,	Abington, ... }	William L. Reed, . . Daniel U. Johnson, .	Abington. “
13th,	{ Hanson, ... } Halifax, ... } Plympton, ... }	Daniel S. McLean, .	Plympton.

COUNTY OF BARNSTABLE.

1st,	{ Barnstable, ... } Sandwich, ... } Falmouth, ... }	Nathaniel Hinckley, . John S. Fish, ... William Nye, Jr., . .	Barnstable. Sandwich. Falmouth.
2d,	{ Yarmouth, ... } Dennis, ... } Harwich, ... } Chatham, ... }	Benj. H. Matthews, . James S. Howes, . . . Nathaniel Doane, Jr.,	Yarmouth. Dennis. Harwich.
3d,	{ Brewster, ... } Orleans, ... } Eastham, ... }	Elijah Cobb, ...	Brewster.
4th,	{ Wellfleet, ... } Truro, ... } Provincetown, ... }	Daniel Paine, ... James Gifford, ...	Truro. Provincetown.

* Contested and obtained seat of THEOPHILUS KING—member certified.

HOUSE OF REPRESENTATIVES.

COUNTY OF DUKES.

District.	Town or Ward.	Name of Representative.	Residence.
One.	{ Edgartown, ... } Tisbury, ... } Chilmark, ... }	Joseph W. Holmes, .	Tisbury.

COUNTY OF NANTUCKET.

One.	Nantucket, ... {	Peleg Ray, ... James F. Cobb, . .	Nantucket. “
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WILLIAM STOWE, *Clerk.*JOHN MORISSEY, *Sergeant-at-Arms.*REV. THOMAS DODGE, *Chaplain.*EDGAR M. BROWN, *Door-keeper.*

NOTE.—The seat of GEORGE D. WELLS, of Greenfield, one of the Representatives of the First Franklin County District, was rendered vacant on the first day of June, by reason of his acceptance of the office of Justice of the Police Court in the city of Boston.

JOINT SPECIAL COMMITTEE ON THE REVISION OF THE GENERAL STATUTES.

Chairman—CHARLES HALE.

On the part of the Senate.

JOHN W. BACON,		<i>Natick.</i>
JOHN BRANNING,		<i>Lee.</i>
BENJAMIN F. BUTLER,		<i>Lowell.</i>
ROBERT T. DAVIS,		<i>Fall River.</i>
WILLIAM FABENS,		<i>Marblehead.</i>
CHARLES A. FRENCH,		<i>Stoughton.</i>
ICHABOD N. LUCE,		<i>Edgartown.</i>
GEORGE ODIORNE,		<i>Boston.</i>
DEXTER F. PARKER,		<i>Worcester.</i>
CHARLES A. PHELPS,		<i>Boston.</i>
PEREZ SIMMONS,		<i>Hanover.</i>
GEORGE WALKER,*		<i>Springfield.</i>

On the part of the House.

WILLIAM F. ARNOLD,		<i>Northampton.</i>
ALANSON BORDEN,		<i>New Bedford.</i>
CHARLES BRIMBLECOM,		<i>Barre.</i>
E. W. B. CANNING,		<i>Stockbridge.</i>
MELLEN CHAMBERLAIN,		<i>Chelsea.</i>
JAMES F. COBB,		<i>Nantucket.</i>
CALEB CUSHING,†		<i>Newburyport.</i>
JOHN S. ELDRIDGE,		<i>Canton.</i>
HENRY H. FOX,		<i>Taunton.</i>
JOHN Q. A. GRIFFIN,		<i>Malden.</i>
CHARLES HALE,		<i>Boston.</i>
SHATTUCK HARTWELL,		<i>Littleton.</i>
NATHANIEL HINCKLEY,		<i>Barnstable.</i>
DANIEL U. JOHNSON,		<i>Abington.</i>
THORNTON K. LOTHROP,		<i>Boston.</i>
AMOS B. MERRILL,		<i>Boston.</i>
WILLIAM S. MORTON,		<i>Quincy.</i>
AMASA NORCROSS,		<i>Fitchburg.</i>
GEORGE W. BENSON,‡		<i>Lawrence.</i>
HENRY C. RICE,		<i>Worcester.</i>
THOMAS H. RUSSELL,		<i>Boston.</i>
RICHARD S. SPOFFORD, Jr.,		<i>Newburyport.</i>
GEORGE M. STEARNS,§		<i>Chicopee.</i>
INCREASE SUMNER,		<i>Great Barrington.</i>
JOHN C. TUCKER,		<i>Boston.</i>
CHARLES W. UPHAM,		<i>Salem.</i>
GEORGE W. WARREN,		<i>Weston.</i>
GEORGE D. WELLS,		<i>Greenfield.</i>
TAPPAN WENTWORTH,		<i>Lowell.</i>

WILLIAM S. ROBINSON, of Malden, *Clerk.*

* Resigned, and GEORGE M. BROOKS, of Concord, chosen to fill vacancy.

† Resigned, and ISAAC F. SHEPARD, of Somerville, chosen to fill vacancy.

‡ Deceased, and DEAN PEABODY, of Lynn, chosen to fill vacancy.

§ Resigned, and JOHN A. WALKER, of Pittsfield, chosen to fill vacancy.

|| Vacated, and HUGH B. MILLER, of Colrain, chosen in his stead.

Commonwealth of Massachusetts.

SECRETARY'S DEPARTMENT, }
BOSTON, June 1, 1859. }

I hereby certify that the printed Acts, Resolves, &c.,
contained in this volume, are true copies of the originals.

OLIVER WARNER,

Secretary of the Commonwealth.

A C T S .

AN ACT CONCERNING THE TERMS OF THE SUPREME JUDICIAL COURT *Chap. 274* IN THE COUNTY OF WORCESTER.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECTION 1. The jury term of the supreme judicial court When to be held.
for the county of Worcester, shall be held on the second
Tuesday of April in each year.

SECTION 2. All acts inconsistent herewith, are hereby Repeal.
repealed.

SECTION 3. This act shall take effect from and after its
passage. *Approved September 19, 1859.*

AN ACT RELATING TO TERMS OF COURTS.

Chap. 275

Be it enacted, &c., as follows :

SECTION 1. If the public business demands, the supreme May adjourn
from one shire
town to another
in same county.
judicial court, and superior court, may adjourn an established
term of the court, in one shire town to another in the same
county. Persons, recognizances and processes, required to Processes, &c.,
returnable at ad-
journd term.
appear at or to be returned to the established term, shall
appear at, be returnable to, and have day in the adjourned
term.

SECTION 2. This act shall take effect from its passage.

Approved September 30, 1859.

AN ACT IN ADDITION TO AN ACT TO AUTHORIZE THE APPOINTMENT *Chap. 276* OF A SURVEYOR-GENERAL OF LUMBER, AND THE ESTABLISHMENT OF A LUMBER DISTRICT.

Be it enacted, &c., as follows :

SECTION 1. The act entitled "An Act to authorize the When to take ef-
fect.
appointment of a Surveyor-General of Lumber, and the
establishment of a Lumber District," approved on the sixth
day of April last, shall be deemed to take effect, as provided
in the seventh section thereof, only for the purpose of the
appointment and qualification of the surveyor-general and

the deputy-surveyors; and said act shall take full effect on the first day of December next.

SECTION 2. This act shall take effect on its passage.

Approved October 1, 1859.

Chap. 277 AN ACT TO CONFIRM CERTAIN ACTS DONE BY LEMUEL K. STRICKLAND, AS JUSTICE OF THE PEACE.

Be it enacted, &c., as follows :

Acts made valid.

All acts done by Lemuel K. Strickland, of Sandisfield, in the county of Berkshire, as a justice of the peace within and for said county, between the fifteenth day of January and the fifteenth day of September, in the year eighteen hundred and fifty-nine, are hereby made valid and confirmed to the same extent as though he had been during that interval duly qualified to discharge the duties of said office.

Approved October 1, 1859.

Chap. 278 AN ACT MAKING APPROPRIATIONS FOR THE MILEAGE AND COMPENSATION OF THE MEMBERS OF THE LEGISLATURE, AT THE SPECIAL SESSION THEREOF.

Be it enacted, &c., as follows :

Appropriation for members.

SECTION 1. The sums hereinafter mentioned are appropriated, and shall be allowed and paid out of the treasury of the Commonwealth, from the ordinary revenue, upon the warrants of the governor, for the purposes specified, to meet the expenses for mileage and compensation of the members of the senate and house of representatives, at the present special session thereof:

Mileage and compensation.

For the mileage of senators, a sum not exceeding four hundred dollars.

For the mileage of representatives, a sum not exceeding two thousand four hundred dollars.

For the compensation of senators, a sum not exceeding twelve thousand three hundred dollars.

For the compensation of representatives, a sum not exceeding seventy-two thousand four hundred dollars.

SECTION 2. Each member of the senate and house of representatives shall receive mileage at the rate of one dollar for every five miles travel once during the session from his place of abode to the place of the sitting of the general court; and on the first day of each month during the session he shall receive two dollars a day, according to the provisions of sections second and third of chapter two of the acts of eighteen hundred and fifty-eight.

SECTION 3. This act shall take effect upon its passage.

Approved October 17, 1859.

AN ACT MAKING A FURTHER APPROPRIATION TO MEET THE EXPENDITURE AUTHORIZED BY THE RESOLVE, CHAPTER SIXTY-FOUR, OF THE PRESENT YEAR.

Chap. 279

Be it enacted, &c., as follows :

SECTION 1. The sum of two thousand dollars is hereby appropriated, and shall be allowed and paid out of the treasury of the Commonwealth, from the ordinary revenue, upon the warrant of the governor, in addition to the sum of one thousand dollars, appropriated in chapter two hundred and seventy-two of the acts of the present year, for the purpose specified in the resolve chapter sixty-four of the present year. \$2,000 appropriated.

SECTION 2. This act shall take effect from and after its passage.

Approved October 17, 1859.

AN ACT MAKING APPROPRIATIONS FOR THE COMPENSATION OF THE DOOR-KEEPERS, MESSENGERS AND PAGES OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Chap. 280

Be it enacted, &c., as follows :

SECTION 1. The sum of four thousand one hundred dollars is hereby appropriated, and shall be allowed and paid out of the treasury of this Commonwealth, from the ordinary revenue, upon the warrants of the governor, for the compensation of the door-keepers, messengers and pages of the senate and house of representatives, at the present special session of the legislature. \$4,100 appropriated.

SECTION 2. The said officers shall be paid monthly, at the rate of two dollars a day for each door-keeper or messenger, and one dollar and fifty cents a day for each page. Paid monthly, &c.

SECTION 3. This act shall take effect upon its passage.

Approved October 17, 1859.

AN ACT TO CHANGE THE NAME OF THE TRUSTEES OF THE NEWTON STREET METHODIST EPISCOPAL CHURCH IN BOSTON.

Chap. 281

Be it enacted, &c., as follows :

SECTION 1. The Trustees of the Newton Street Methodist Episcopal Church in Boston, a corporation organized on the twenty-seventh day of October, in the year eighteen hundred and fifty-six, under the provisions of chapter two hundred and eighty, of the acts of the year eighteen hundred and forty-seven, may take the name of The Trustees of the Eighth Society of the Methodist Episcopal Church in Boston, and by such name be a body corporate, with all the powers, privileges, duties and liabilities of said chapter, and the forty-fourth chapter of the Revised Statutes. Name changed to The Trustees of the Eighth Society of the Methodist Episcopal Church.

SECTION 2. This act shall take effect from and after its passage.

Approved October 17, 1859.

Chap. 282

AN ACT RELATING TO THE JURISDICTION IN CRIMINAL CASES.

Be it enacted, &c., as follows :

Capital cases to
be tried in Su-
preme Judicial
Court, &c.

SECTION 1. Every person indicted for a capital offence shall be tried in the supreme judicial court by such number of the justices thereof as from time to time by law constitute a full law court; and in all respects the proceedings, and the rights of the party accused, and the powers and duties of the supreme judicial court and the justices and clerks thereof, shall be the same as provided by law before the passage of an act entitled "An Act establishing the Superior Court," except that upon the trial exceptions may be taken, and questions of law reserved, to be heard like exceptions taken in trials before a single justice. And the superior court, and the clerks thereof, shall perform the same duties required of the court of common pleas and the municipal court of the city of Boston, and the clerks thereof, in relation to such cases before the passage of said act.

Justices may
hold special
term for trial
of capital cases,
&c.

SECTION 2. The justices of the supreme judicial court, or such number of them as constitute a full law court, may hold a special term in any county in which an indictment for a capital offence is pending, for the trial thereof, at such time and place as they direct by an order in writing, under their hands, addressed to the sheriff of the county, if it appears to them that the purposes of public justice require the trial to be had before the next stated term of said court in such county, or any adjournment thereof; and thereupon the said court, and the sheriffs, clerks, and other officers, shall have and exercise the powers prescribed in the forty-fourth and forty-fifth sections of the eighty-first chapter of the Revised Statutes.

Indictment pend-
ing in Dukes,
special term to be
held in Barnsta-
ble.

SECTION 3. If the indictment is pending in the county of Dukes County, the special term shall be held in the county of Barnstable.

Act to apply, &c.

SECTION 4. This act applies to cases now pending, and all indictments for capital offences now pending in the superior court shall be transferred to the supreme judicial court.

One justice may
try criminal cases
in Supr. Court.

SECTION 5. All criminal trials in the superior court may be before a single justice.

SECTION 6. This act takes effect from and after its passage.

Approved October 17, 1859.

Chap. 283

AN ACT MAKING APPROPRIATIONS FOR CERTAIN EXPENDITURES AND DEFICIENCIES, AND FOR OTHER PURPOSES.

Be it enacted, &c., as follows :

Additional appro-
priations, extra
session, 1859.

SECTION 1. The sums hereinafter mentioned are appropriated and shall be allowed and paid out of the treasury of

the Commonwealth, from the ordinary revenue, except where herein otherwise provided, upon the warrants of the governor, for the purposes specified, as follows, viz. :

For the salary of the clerk of the supreme judicial court for the Commonwealth, for the six months ending on the thirty-first day of December, of the present year, the sum of fifteen hundred dollars.

Salary clerk S. J. Court.

For the salary of the assistant-clerk of the supreme judicial court of the Commonwealth, for the three months ending on the thirty-first day of December, of the present year, the sum of three hundred and seventy-five dollars.

Assistant-clerk.

For printing for the legislature, ordered by the sergeant-at-arms, in addition to the appropriation for this purpose, made in chapter two hundred and seventy-one of the acts of the present year, a sum not exceeding two hundred dollars.

Printing for legislature.

For printing the report of the commissioners on the revision of the statutes, a sum not exceeding six thousand nine hundred dollars.

Printing report on Rev. Statutes.

For printing ordered by the joint special committee of the legislature on the revision of the statutes, a sum not exceeding three thousand two hundred dollars.

Printing for committee on statutes.

For printing required by the legislature at the present extra session thereof, a sum not exceeding one thousand dollars.

Printing for legislature.

For printing blanks, circulars, and the callendar of the orders of the day for the use of the senate, under the direction of the clerk of the senate, in addition to the appropriation for this purpose, made in chapter seventy-seven of the acts of the present year, the sum of thirty dollars.

Additional for senate.

For printing such number, not exceeding one hundred and fifty thousand, of the pamphlet edition of the general acts and resolves of the present year, in accordance with the provisions of chapter eighty-eight of the resolves of the year eighteen hundred and forty-seven, and chapter eighty-nine of the resolves of the year eighteen hundred and fifty, in addition to the appropriation for this purpose, made in chapter seventy-seven of the acts of the present year, a sum not exceeding two thousand eight hundred and fifty dollars.

Additional for printing general laws.

For printing ten thousand copies of the report of the board of agriculture, in addition to the appropriation for this object in said chapter seventy-seven, a sum not exceeding eight hundred dollars.

Printing report board of agriculture.

For the state library, in addition to the appropriation made therefor, in chapter two hundred and seventy-one of the present year, a sum not exceeding one hundred dollars.

State library.

- Town of Belmont.** For expense of furnishing the town of Belmont with weights, measures and balances, according to chapter one hundred and ninety-five of the acts of the year eighteen hundred and fifty, the sum of one hundred and fifty dollars.
- Stationery, &c., for secretary.** For stationery and parchment for the secretary of the Commonwealth, incidental to the revision of the statutes, a sum not exceeding one thousand dollars.
- Printing, &c., for adjutant-general.** For printing and incidental expenses of the office of the adjutant-general, in addition to the appropriation for these purposes, made in said chapter seventy-seven, a sum not exceeding two hundred dollars.
- Expenses incurred under chap. 489, Acts 1855.** For expenses incurred the present year under the provisions of an act entitled "An Act to protect the rights and liberties of the people of the Commonwealth of Massachusetts," being chapter four hundred and eighty-nine of the acts of the year eighteen hundred and fifty-five, a sum not exceeding two hundred dollars.
- Rainsford Island Hospital.** For sundry expenses of Rainsford Island Hospital, incurred in the year eighteen hundred fifty-eight, and previous years, the sum of one hundred and fifty dollars.
- Coroners.** For coroners' accounts for the year eighteen hundred and fifty-eight, and previous years, the sum of four hundred and fifty dollars.
- State paupers.** For sundry expenditures for the support and relief of state paupers, otherwise than in the three almshouses and in the hospital at Rainsford Island, in the year eighteen hundred fifty-eight, and previous years, a sum not exceeding one thousand dollars.
- Alien commissioners.** For sundry expenses of the alien commissioners in the year eighteen hundred and fifty-eight, and previous years, the sum of eighty dollars.
- Courts of insolvency for 1858.** For sundry expenses of the courts of insolvency, for the year eighteen hundred fifty-eight, and previous years, the sum of one hundred dollars.
- Advertising eastern lands.** For advertising eastern lands, under the resolve chapter fifty-two, of the present year, the sum of five hundred and thirty-five dollars and sixty-two cents.
- Highland Agricultural Society.** For bounty to the Highland Agricultural Society, the sum of three hundred and eighty-three dollars and forty cents.
- State Reform School, for expenses incident to the fire.** For expenses incident to the late fire at the state reform school, at Westborough, as follows, viz. :
For repairs of buildings, and providing accommodations for the inmates of said school by the trustees, a sum not exceeding six thousand seven hundred and fifty dollars.
For expenses incurred by J. S. C. Knowlton, sheriff of the county of Worcester, in the removal and accommodation of

a portion of the inmates of the State Reform School, a sum not exceeding thirty-seven hundred dollars, payable to said Knowlton; of which sum twenty-five hundred eighty-two dollars and sixty-one cents, and interest from the first day of October current, is to be paid from the appropriation made in chapter two hundred and seventy-one, of the acts of the present year, for the current expenses of said State Reform School.

For expenses not yet ascertained, incident to the said fire at said reform school, subject to the approval of the attorney-general, and which are not already provided for in the annual appropriation for the current expenses of said school, a sum not exceeding five hundred dollars.

For the expenses of filling up and completing certain lands in the Back Bay, required by section three of chapter two hundred and ten of the acts of the present year, twenty-five thousand dollars; for the compensation of the special commissioners appointed under section four of said act, four hundred and fifty dollars: said sums to be paid on the order of the commissioners on the Back Bay, from the moiety of the proceeds of sales which by the resolves one thousand eight hundred and fifty-seven, chapter seventy, is applicable to improvements.

Back Bay, special commissioners, &c.

For the compensation and expenses of the committee appointed in pursuance of the resolve, chapter forty-seven, of the present year, concerning the flowage of lands in the towns of Concord, Sudbury, Wayland, Bedford, and Carlisle, in addition to the sum appropriated for this purpose, in chapter two hundred and seventy, of the acts of the present year, the sum of three hundred dollars.

Commissioners on flowage of lands in Concord and other towns.

SECTION 2. The salary of the assistant-librarian and secretary of the board of education, shall be paid from the moiety of the income of the school fund applicable to educational purposes, any thing in chapter two hundred and seventy-two of the acts of the present year, to the contrary notwithstanding.

Salary of assistant-librarian and secretary of board of education, how payable.

SECTION 3. This act shall take effect from and after its passage.

Approved October 22, 1859.

AN ACT CONCERNING THE SUPREME JUDICIAL COURT.

Be it enacted, &c., as follows:

Chap. 284

Whenever any suit or petition is instituted or an appeal is made from the decision of a judge of probate and insolvency, except in cases of insolvency in either of the counties of Worcester, Hampshire, Berkshire or Hampden, cognizable in the supreme judicial court in said counties respectively,

Appeals, &c., in court of probate and insolvency cognizable in S. J. C. at law terms in counties where instituted, except, &c.

the same may be made returnable to and have day at the law terms held in said counties wherein such suits, appeals or petitions are instituted, as well as at terms held therein for the trial of jury causes only. *Approved October 25, 1859.*

Chap. 285

AN ACT ESTABLISHING THE NAUTICAL BRANCH OF THE STATE REFORM SCHOOL.

Be it enacted, &c., as follows:

School established.

Government to vest in five trustees.

How appointed, &c.

Vacancies, how filled.

No compensation, &c.

Trustees to be a corporation.

Powers, duties, &c.

SECTION 1. There shall be established in some harbor of the Commonwealth, to be determined by the governor and council, a school to be called "The Nautical Branch of the State Reform School," the government whereof shall be vested in five trustees. Immediately upon the passage of this act three trustees shall be appointed by the governor and council, for the several terms of one, two, and three years, and hereafter, one annually for the term of three years; one trustee shall be annually appointed by the Boston Board of Trade, and one by the Boston Marine Society, each for the term of one year, subject to the approval of the governor and council. The terms of office of all the trustees shall expire on the first Wednesday of February. Vacancies for unexpired terms shall be filled in the same manner in which the persons whose places are vacated were appointed: any person whose term has expired may be reappointed. The trustees shall receive no compensation for their services, but shall be allowed all expenses incurred by them in the discharge of their duties.

SECTION 2. The trustees shall be a corporation by the name of the Trustees of the Nautical Branch of the State Reform School, for the purpose of taking and holding, to themselves and their successors, in trust for the Commonwealth, any grant or devise of lands, and any donation and bequest of money or other personal property, made for the use of said institution, and for the purpose of preserving and investing the proceeds thereof in good securities, with all powers necessary to carry said purposes into effect.

SECTION 3. The trustees shall have control of the schoolship to be hereafter procured for the use of said institution, and shall exercise and perform the same powers and duties over the same, and over the inmates of said institution, as are exercised and performed by the trustees of the state reform school, over the school at Westborough, and the inmates thereof; they shall have the same powers in relation to the appointment, removal, and compensation of the superintendent, and other officers, teachers, and servants, and the same power to bind out any boy as an apprentice or servant,

whom they deem not suited for nautical employment. They may, with the approval of the governor and council, make by-laws and alter the same. They shall also cause the boys under their charge to be instructed in navigation and the duties of seamen. They may also send any boy upon any voyage at sea, and in his behalf, enter into any contract necessary therefor, and such action shall operate as a discharge of the boy from the institution.

SECTION 4. There shall be a treasurer appointed by the governor and council for the term of three years, unless sooner removed for sufficient cause, who shall, before he enters upon the discharge of his duties, give a bond to the Commonwealth, with sureties satisfactory to the governor and council, in the sum of three thousand dollars, conditioned that he shall faithfully account for all moneys received by him as treasurer; which bond shall be filed in the office of the treasurer of the Commonwealth.

Treasurer, how appointed, &c.

Bond, \$3,000.

SECTION 5. The effect of a commitment to the school hereby established, and the effect of a discharge therefrom, shall be the same as is provided in the case of the state reform school.

Effect of commitment, &c., same as reform school

SECTION 6. The superintendent shall be the master of the school-ship. He shall give bond as required of the superintendent of the state reform school. He shall exercise and perform the same powers and duties in relation to the institution hereby established, and the property and inmates thereof, as the superintendent of the state reform school exercises and performs in relation to the state reform school, its property and inmates; and he may navigate the ship, or any tender thereof, and transport the same into and upon any of the ports and waters of the Commonwealth.

Superintendent, master of ship.

Bond.

Powers and duties.

SECTION 7. This act shall take effect on its passage, but no boy shall be committed or sent to said institution until the governor, by proclamation, gives notice that the school-ship, to be procured under the authority of resolves entitled "Resolves for the purchase of a vessel for the use of the Nautical Branch of the State Reform School," is ready for inmates.

When to take effect, &c.

Approved October 28, 1859.

AN ACT RELATING TO THE STATE REFORM SCHOOL AND THE NAUTICAL BRANCH OF THE SAME.

Chap. 286

Be it enacted, &c., as follows:

SECTION 1. Whenever any boy under the age of sixteen years is brought before any trial justice or police court, charged with any offence punishable by imprisonment, otherwise than for life, and the justice or court is of opinion that

Boys may be committed to nautical branch of state reform school.

Method of procedure.

the boy, if found guilty, would be a fit subject for the state reform school, or for the nautical branch of the state reform school, or if any person in behalf of such boy makes affidavit that he believes him to be a fit subject therefor, such justice or court, by warrant in due form of law, shall cause such boy to be brought forthwith before the judge of probate and insolvency for the same county, or any judge of the superior court who may be found within the county, and shall transmit to said judge the complaint by virtue of which he was arrested, and shall cause notice of the pendency of such complaint to be given to the mayor of the city or one of the selectmen of the town, wherein the boy resides; and the judge committing such boy, shall certify on the warrant, in what place the boy resided at the time of his commitment; and such certificate, for the purposes of this act, shall be conclusive evidence of his residence. In such case, or whenever such boy is brought originally before such judge on such complaint, he shall proceed in the manner prescribed in the case of a girl brought before a judge of probate and insolvency on a similar complaint, having, in case such boy is originally brought before him, first caused notice to be given as aforesaid, and he shall, if of opinion that the boy is guilty, and is a suitable subject for the state reform school, or for the nautical branch of the state reform school, commit him to the one or the other of said institutions.

Appeal, powers, &c., of officers.

SECTION 2. The right of appeal, and the powers and duties and fees of all officers, shall be the same as are provided by law in the case of a girl brought before such judge on a like complaint.

Unfit subjects may be bound over.

SECTION 3. If the judge is of opinion that the boy is guilty, and is not a fit subject for either of said institutions, he shall, if the offence charged is one within the jurisdiction of police courts, sentence him to such punishment as is provided by law for the offence, subject to the right of appeal, as in cases before police courts, and otherwise he shall bind him over to appear before the superior court for the same county, as police courts may do in like cases. And all laws relating to appeals from police courts, and the taking and return of recognizances, shall apply to cases under this act.

Supreme or superior courts may commit.

SECTION 4. The supreme judicial court and the superior court may commit any boy to the state reform school, as now provided by law, or to the nautical branch of the state reform school in like cases, if the convict is deemed suited to nautical employments, or otherwise to such punishment as is provided by law for the offence; but no boy over the age of fourteen years shall be committed by any court or judge to

Age—sentence.

the state reform school at Westborough; and all commitments to either school shall be during minority, and no sentence shall be in the alternative.

SECTION 5. By consent of the trustees of the state reform school, and of the nautical branch of the state reform school, or by direction of the governor, any boy may be transferred from one institution to the other: *provided*, that no boy who is an inmate of the state reform school when this act takes effect, shall be so transferred without his consent. Boys may be transferred. Proviso.

SECTION 6. Whenever any boy is committed to either of said schools, the city or town wherein he resides at the time of his commitment, shall pay to the treasurer of the school the sum of fifty cents per week, payable quarterly on the first days of January, April, July and October, during the time he remains therein. And any sum so paid may be recovered by such city or town of any parent, kindred, or guardian, liable by law to maintain such boy, or of the city or town in which he has his lawful settlement. Support.

SECTION 7. The first section of the one hundred and seventieth chapter of the acts of the year one thousand eight hundred and fifty-nine, is hereby repealed; but this repeal shall not affect any action pending, or any rights accrued thereunder. Repeal.

SECTION 8. This act shall take effect in thirty days after its passage, but no commitments shall be made to the nautical branch of the state reform school, until the governor, by his proclamation, gives notice that the same is ready for inmates. When to take effect.

Approved October 28, 1859.

AN ACT FOR THE REGULATION OF WOODEN BUILDINGS IN THE CITY OF NEW BEDFORD. *Chap. 287*

Be it enacted, &c., as follows:

SECTION 1. The city council of the city of New Bedford are hereby authorized and empowered to make all such regulations, ordinances, and by-laws, as they may deem expedient concerning the erection of wooden buildings within the limits of the city, for protection against fire; to establish districts within which wooden buildings, except of a prescribed size, shall not be erected, and to prescribe such penalties as they deem proper, for the violation of any such regulations, ordinances, and by-laws. City council to make regulations for the erection of wooden buildings.

SECTION 2. Any building hereafter erected in the city of New Bedford, contrary to the provisions of such by-laws, ordinances, or regulations, shall be deemed and taken to be a common nuisance; and the mayor and aldermen of the said city shall have the like power and authority to abate and Buildings to be deemed a nuisance. Mayor and aldermen may abate and remove.

remove the same, as is given to the board of health in the tenth and eleventh sections of the twenty-first chapter of the Revised Statutes: *provided, however*, that nothing in this section shall be construed as affecting any remedy already given in the preceding section.

Proviso. SECTION 3. The act entitled "An Act for the regulation of wooden buildings in the city of New Bedford," approved March twenty-fourth, in the year eighteen hundred and fifty-five, is hereby repealed.

Approved November 22, 1859.

Chap. 288 AN ACT TO INCORPORATE THE PROPRIETORS OF THE SHAWMUT AVENUE BAPTIST SOCIETY, IN BOSTON.

Be it enacted, &c., as follows :

Corporators. SECTION 1. J. W. Parker, Benjamin Smith and John K. Deane, and their associates and successors, are hereby made a corporation by the name of the Shawmut Avenue Baptist Society ; with all the powers and privileges, and subject to all the duties, restrictions and liabilities, set forth in the twentieth and forty-fourth chapters of the Revised Statutes ; with power to tax pews according to the provisions of "An Act relating to Religious Societies," passed March twenty-fifth, in the year one thousand eight hundred and forty-five.

Name.
Privileges, restrictions, &c.
Annual meeting, when to be held, &c. SECTION 2. The annual meeting of said religious society shall be held on any day in April in each year, Sunday excepted ; and at said meeting there shall be chosen by ballot a moderator, clerk, treasurer, collector, and a standing committee, consisting of seven persons ; all of whom shall continue in office one year, and until others are chosen and qualified in their stead.

SECTION 3. This act shall take effect from and after its passage.

Approved November 29, 1859.

Chap. 289 AN ACT DECLARING THE TERRITORIAL LIMITS OF THE COMMONWEALTH, AND ESTABLISHING THE LIMITS OF CERTAIN COUNTIES.

Be it enacted, &c., as follows :

Limits, how far extending to sea. SECTION 1. The territorial limits of this Commonwealth extend one marine league from its sea-shore at low-water mark. When an inlet or arm of the sea does not exceed two marine leagues in width between its headlands, a straight line from one headland to the other is declared to be equivalent to the shore line. The boundaries of counties bordering upon the sea shall extend to the line of the State as above defined. The jurisdiction of counties separated by waters within the jurisdiction of the State shall be concurrent.

SECTION 2. This act shall take effect from its passage.

Approved December 16, 1859.

AN ACT IN ADDITION TO AN ACT RESPECTING THE PURCHASE AND DISTRIBUTION OF THE REPORTS OF CASES ARGUED AND DETERMINED IN THE SUPREME JUDICIAL COURT.

Chap. 290

Be it enacted, &c., as follows :

SECTION 1. The secretary of the Commonwealth is hereby authorized and directed, whenever an appropriation shall have been made therefor, to furnish the seventh volume of Gray's Reports, and any volume of reports of cases argued and determined in the supreme judicial court of Massachusetts, which may hereafter be published, to the clerks of each town and city in this Commonwealth, for the use of such town or city.

Secretary to furnish towns with law reports.

SECTION 2. This act shall take effect on and after its passage.

Approved December 16, 1859.

AN ACT RELATING TO THE WRIT OF HABEAS CORPUS.

Chap. 291

Be it enacted, &c., as follows :

SECTION 1. Every writ of habeas corpus which may be issued under the laws of this Commonwealth, after this act shall take effect, shall be made returnable forthwith, either before the supreme judicial court, the superior court, or a justice of either of said courts, in term time, or vacation, and whether the court is in session or not, and at such place as shall be designated in the writ.

Return of writ.

SECTION 2. In all cases of imprisonment or restraint by a person not a sheriff, deputy-sheriff, coroner or jailer of this State, the writ shall be in the following form :

COMMONWEALTH OF MASSACHUSETTS.

[SEAL.] To the sheriffs of our several counties, and their respective Form.
deputies,

Greeting :

We command you that the body of _____ of _____ by _____
of _____ imprisoned and restrained of his liberty, as it is said, you take
and have before _____ a justice of our supreme judicial court, (or superior
court, as the case may be,) at _____ immediately after receipt of this
writ, to do and receive what our said justice shall then and there consider
concerning him in this behalf; and summon said _____ then and there
to appear before our said justice, to show the cause of the taking and
detaining of said _____ : and have you there this writ with your doings
thereon. Witness _____ at _____ this _____ day of _____ in the
year _____.

SECTION 3. This act shall take effect from and after its passage.

Approved December 21, 1859.

AN ACT MAKING FURTHER APPROPRIATIONS FOR THE REPAIR AND MAINTENANCE OF CHARLES RIVER AND WARREN BRIDGES.

Chap. 292

Be it enacted, &c., as follows :

The sums hereafter mentioned are appropriated and shall be allowed and paid out of the Charles River and

Appropriation.

Repairs and maintenance between January 1 and May 19, 1859.

Subsequent repairs and maintenance.

Incidental expenses.

Warren Bridges Fund, on the warrant of the governor, in addition to the sums appropriated from said fund in chapter one hundred and ninety-eight, of the acts of the present year; that is to say: For the payment of such claims as may be approved by the auditor, for the repair and maintenance of Charles River and Warren Bridges, between the first day of January, eighteen hundred and fifty-nine, and May nineteenth, eighteen hundred and fifty-nine, a sum not exceeding two thousand one hundred dollars; for repairs on said bridges since the said nineteenth of May, a sum not exceeding one thousand dollars; for incidental expenses of the draw-tenders on said bridges, a sum not exceeding one hundred dollars.

Approved December 21, 1859.

Chap. 293 AN ACT AUTHORIZING AN ISSUE OF SCRIP FOR THE PAYMENT OF THE EXPENSES OF THE REVISION OF THE GENERAL STATUTES.

Be it enacted, &c., as follows:

Treasurer to issue.

\$150,000.

Proviso.

SECTION 1. The treasurer of this Commonwealth is hereby authorized and directed to issue scrip or certificates of debt, in the name and behalf of the Commonwealth, and under his signature and the seal of the Commonwealth, bearing date on the first day of January, in the year one thousand eight hundred and sixty, for the sum of one hundred and fifty thousand dollars, with coupons attached for interest at the rate of five per centum per annum, payable semi-annually on the first days of July and January at the office of said treasurer, and redeemable at the same place on the first day of January that shall be in the year one thousand eight hundred and seventy, which scrip or certificates shall be countersigned by the governor, and shall be deemed to be a pledge of the faith and credit of the Commonwealth for the redemption thereof; and the same shall be sold by the treasurer: *provided*, that no part thereof shall be sold at less than par, and the proceeds thereof shall be paid into the treasury of the Commonwealth.

SECTION 2. This act shall take effect from and after its passage.

Approved December 22, 1859.

Chap. 294 AN ACT FOR THE REMOVAL OF CONSTABLES, FOR CAUSE, IN CITIES.
Be it enacted, &c., as follows:

Removal for misconduct.

The mayor of any city shall, with consent of the aldermen, remove from office any constable of such city, who shall be guilty of gross misconduct.

Approved December 23, 1859.

AN ACT MAKING APPROPRIATIONS FOR THE COMPENSATION OF THE COMMITTEE ON THE REVISION OF THE STATUTES, AND FOR OTHER PURPOSES.

Chap. 295

Be it enacted, &c., as follows :

SECTION 1. The sums hereinafter mentioned are appropriated and shall be allowed and paid out of the treasury of the Commonwealth from the ordinary revenue, upon the warrants of the governor, for the purposes hereinafter specified: for the compensation and mileage of the committee to sit in the recess of the general court, to whom was referred the report of the commissioners on the revision of the statutes, in addition to the sum heretofore appropriated, the sum of two thousand and seven hundred dollars; for the compensation of the clerk, messengers, door-keepers, pages, and for contingent and incidental expenses of said committee, in addition to the sum heretofore appropriated, three thousand nine hundred and fifty dollars.

Appropriations authorized.

Compensation and mileage.

Clerk, messengers, &c.
Incidental

SECTION 2. This act shall take effect on and after its passage.

Approved December 23, 1859.

AN ACT IN ADDITION TO AN ACT MAKING APPROPRIATIONS FOR CERTAIN EXPENDITURES AND DEFICIENCIES, AND FOR OTHER PURPOSES.

Chap. 296

Be it enacted, &c., as follows :

SECTION 1. The sums hereinafter mentioned are appropriated and shall be allowed and paid out of the treasury of the Commonwealth, from the ordinary revenue, upon the warrants of the governor, for the purposes specified in certain acts and resolves, for the present year, herein cited, as follows, viz. :

Appropriations authorized, &c.

For the mileage and compensation of the lieutenant-governor and council, in addition to former appropriations, a sum not exceeding three thousand dollars.

Lieutenant-Governor and council.

For the compensation of senators, in addition to former appropriations, a sum not exceeding four thousand dollars.

Senate.

For the compensation of representatives, in addition to former appropriations, a sum not exceeding twenty thousand dollars.

House.

For the salaries of the clerks of the senate and house of representatives, including the compensation of such assistants as they may appoint, four thousand dollars in addition to former appropriations.

Clerks of legislature.

For the salaries of the chaplains of the senate and house of representatives, four hundred dollars in addition to former appropriations.

Chaplains.

For fees of witnesses summoned before committees having authority to send for persons and papers, a sum not exceed-

Witnesses.

ing three hundred dollars, in addition to former appropriations.

Stationery—
House.

For stationery for the house of representatives purchased by the clerk, which, together with the unexpended balance for the regular session, may be used to meet bills of the extra session, six hundred dollars.

Senate.

For stationery for the senate, purchased by the clerk, which, together with the unexpended balance for the regular session, may be used to meet bills of the extra session, two hundred dollars.

State library.

For the state library, five hundred dollars, in anticipation of appropriations of eighteen hundred and sixty, and in addition to former appropriations.

Indian commis-
sioner.

For compensation and expenses of the commissioner on Indians, appointed under chapter two hundred and sixty-six, of acts of eighteen hundred and fifty-nine, one thousand dollars.

S. J. Court de-
cisions.

For term reports of cases in supreme court, under the provisions of chapter two hundred and sixty-five and two hundred and ninety of the acts of eighteen hundred and fifty-nine, four thousand dollars.

Public docu-
ments.

For printing public documents of eighteen hundred and fifty-eight, one hundred dollars.

Everett's oration.

For expenses attending the delivery of Mr. Everett's oration on Webster, two hundred dollars.

Countersigning
bank notes.

For compensation of the person appointed under authority of acts of eighteen hundred and fifty-nine, chapter two hundred and twenty-one, section six, to countersign circulating notes of the similitude of bank notes, and the same may be paid to the clerk in the auditor's office, in addition to his salary, three hundred dollars.

Marshpee In-
dians.

For the support of certain Marshpee Indians, in addition to the sum allowed in chapter one hundred of resolves of eighteen hundred and fifty-nine, to be paid from the existing appropriation for Indians, thirty-nine and eighty-five one-hundredths dollars.

Rainsford Island
hospital.

For expenses of hospital at Rainsford Island, in addition to amount appropriated in chapter two hundred and seventy-one, acts of eighteen hundred and fifty-nine, three thousand dollars.

Printing, &c.,
for legislature.

For printing, stationery, advertising, postage, and books ordered by the sergeant-at-arms, for the legislature, in addition to former appropriations, one hundred dollars.

S. J. Court—ex-
penses.

For the payment of expenses of the supreme court for the Commonwealth, according to the provisions of chapter one hundred and ninety-six of acts of eighteen hundred and

fifty-nine, four hundred and ninety-eight forty-six hundredths dollars.

For binding railroad reports, according to chapter two hundred and sixty-two, acts of eighteen hundred and fifty-nine, two hundred dollars. Binding railroad reports.

For the payment of railroad fare of military companies, according to chapter one hundred and twenty of resolves of eighteen hundred and fifty-nine, eight hundred dollars. Railroad fare—state encampment.

For expenses of Luther Stowell, according to chapter one hundred and fifteen of resolves of eighteen hundred and fifty-nine, sixty and fifty one-hundredths dollars. Luther Stowell.

For compensation of the commissioners on consolidating the general statutes, in addition to former appropriations, twenty thousand dollars. Commissioners on revision of statutes.

For the compensation of the clerk of the committee of revision, eleven hundred and fifty dollars. Clerk—Committee of Revision.

For door-keepers, messengers and pages of the legislature, five thousand six hundred dollars, being compensation for services at the extra session. Door-keepers, messengers and pages.

For rebuilding the state reform school for boys, thirty thousand dollars. Reform School.

For allowance to Lydia Russell and D. F. Crane, eight hundred and twenty-seven dollars, according to the provisions of resolves of eighteen hundred and fifty-nine, chapter one hundred and twenty-nine. Lydia Russell—D. F. Crane.

For expenses under chapter ninety-three of the resolves of eighteen hundred and fifty-nine, the sum of two thousand dollars, the same to be in addition to sums appropriated under chapter two hundred and seventy-three, of acts of eighteen hundred and fifty-nine. Report on Insects of New England.

For allowance to John P. Bass, according to provisions of resolves of eighteen hundred and fifty-nine, chapter one hundred and thirty-one, seven hundred and fifty dollars. John P. Bass.

For compensation of the watchmen in the state house, in addition to their salary, according to resolves of eighteen hundred and fifty-nine, chapter one hundred and thirty-three, four hundred dollars. Watchmen.

For allowance to Maria T. Benson, according to provisions of resolves of eighteen hundred and fifty-nine, chapter one hundred and thirty-five, four hundred dollars. Maria T. Benson.

For expenses of reporting evidence and pay of witnesses before the special committee of the house on the liquor commission, four hundred and fifty-one dollars. Expenses of Committee on liquor commission.

For compensation of the sergeant-at-arms, in addition to former appropriations for his salary, three hundred dollars. Sergeant-at-arms.

SECTION 2. This act shall take effect from and after its passage.

Approved December 28, 1859,

RESOLVES.

Chap. 104 RESOLVE FOR THE PAYMENT OF CERTAIN EXPENSES OF THE SALE OF THE HOUSE LATELY OCCUPIED BY THE SERGEANT-AT-ARMS.

\$160 appropriated.

Resolved, That a sum not exceeding one hundred and sixty dollars, be, and is hereby appropriated out of the proceeds of the sale of the house in Hancock Street, formerly occupied by the sergeant-at-arms, for the payment of the expenses of advertising, and sale of said house by public auction, April twenty-eighth, one thousand eight hundred and fifty-nine, as per resolve, chapter ninety-five, of one thousand eight hundred and fifty-nine.

Approved September 19, 1859.

Chap. 105

\$31 appropriated for mileage.

RESOLVE IN FAVOR OF HON. JAMES T. ROBINSON.

Resolved, That there be allowed to the Hon. James T. Robinson, the sum of thirty-four dollars, the same being due to him as mileage while a member of the senate from the North Berkshire District, during the first session of the year eighteen hundred and fifty-nine: and the said sum of thirty-four dollars is hereby appropriated and shall be paid out of the treasury of the Commonwealth from the ordinary revenue, upon the warrant of the governor for the purpose above specified.

Approved September 27, 1859.

Chap. 106 RESOLVES OF THANKS TO AND IN FAVOR OF THE ANCIENT AND HONORABLE ARTILLERY COMPANY.

Thanks for escort to Camp Massachusetts.

Resolved, That the thanks of the legislature be presented to Joseph Andrews, commander, and the other officers and members of the Ancient and Honorable Artillery Company, for the very handsome escort furnished by them to the legislature, on the occasion of their visit to Camp Massachusetts.

\$100 appropriated.

Resolved, That the sum of one hundred dollars be allowed to said company, towards the expense incurred by them in said service, and the said sum of one hundred dollars is hereby appropriated, and shall be paid out of the treasury of

the Commonwealth from the ordinary revenue, upon the warrant of the governor, for the purpose herein specified.

Resolved, That a copy of these resolves be engrossed, signed by the president of the senate and speaker of the house of representatives, and transmitted to the company.

Copy of resolves
to company.

Approved October 1, 1859.

RESOLVE AUTHORIZING A LOAN FOR REBUILDING THE COURT HOUSE
IN LAWRENCE. *Chap. 107*

Resolved, That the commissioners of the county of Essex are hereby authorized to borrow, on the credit of said county, a sum of money not exceeding fifteen thousand dollars, to be expended in rebuilding and repairing the court house at Lawrence, recently injured by fire.

County commis-
sioners may bor-
row \$15,000.

Approved October 17, 1859.

RESOLVE EXTENDING THE TIME FOR THE COMMISSIONER APPOINTED
UNDER THE ACT CONCERNING THE INDIANS OF THE COMMONWEALTH,
TO MAKE HIS REPORT. *Chap. 108*

Resolved, That the report of the commissioner appointed under the act concerning the Indians of the Commonwealth, approved April sixth, eighteen hundred fifty-nine, instead of being made at the present session, shall be made to the governor, on or before the first Wednesday of January next, for the information and consideration of the general court for the year eighteen hundred sixty.

First Wednesday
in January.

Approved October 17 1859.

RESOLVE IN FAVOR OF THE COMMISSIONERS OF THE COUNTY OF
DUKES COUNTY. *Chap. 109*

Resolved, That the commissioners of the county of Dukes county are hereby authorized to borrow, on the credit of said county, a sum of money not exceeding fifteen hundred dollars, to be expended in finishing the court house at Edgartown.

May borrow
\$1,500 to finish
court house.

Approved October 25, 1859.

RESOLVE IN RELATION TO THE STATE ALMSHOUSE AT MONSON. *Chap. 110*

Resolved, That the inspectors of the state almshouse at Monson, be allowed to expend, out of the annual appropriation for the year one thousand eight hundred and fifty-nine, a sum not exceeding one thousand dollars, not needed for its current expenses, to complete a system of works already begun, to render more safe from fire said almshouse.

Inspectors to ex-
pend \$1,000, &c.

Approved October 25, 1859.

RESOLVES CONCERNING THE STATE REFORM SCHOOL AT WEST-
BOROUGH. *Chap. 111*

Resolved, That the trustees of the state reform school at Westborough, be authorized and requested to cause plans

Trustees to cause
plans, &c., to be
prepared.

and estimates to be made for the reconstruction of so much of the building recently destroyed or injured by fire, as shall, together with the portions uninjured, furnish accommodation for a number of boys not exceeding two hundred, and for the necessary officers; the plans to be made with special reference to precautions against fire, and to be so arranged that the said boys shall be divided into five classes, including a correctional class—no one class to consist of more than fifty boys, and each class to be kept separate, at all hours, from the other classes.

Resolved, That the trustees be also authorized and requested to cause plans and estimates to be made, for fitting up for the use of the inmates, such of the small buildings belonging to the school, as they may think suited for the purpose; and for the erection on the farm attached to the school, of such other buildings for the accommodation of the boys, as they may think expedient, to be constructed of brick, and in a plain and economical manner; such detached buildings to contain, in all, not more than one hundred and fifty boys; and no one of such buildings to contain more than thirty boys.

Resolved, That the trustees be further requested to lay the plans and estimates provided for in the preceding resolves, before the legislature at its present session.

Approved October 28, 1859.

Plans, &c., to be laid before legislature.

Chap. 112 RESOLVES FOR THE PURCHASE OF A VESSEL FOR THE USE OF THE NAUTICAL BRANCH OF THE STATE REFORM SCHOOL.

Resolved, That the governor, by and with the advice and consent of the council, be authorized to appoint three commissioners, who shall be empowered to obtain by gift or purchase and to equip a good ship, suitable for the purposes of the nautical branch of the state reform school; and to provide in such ship accommodation for a number of boys not exceeding one hundred and fifty, and for the requisite officers; and report to the governor and council a suitable position for such ship. And the said commissioners shall be also empowered to obtain by gift or purchase, and to equip a small vessel, fitted to serve as a tender to the school-ship, for the purpose of exercising the boys at sea.

Resolved, That the said commissioners shall have power to make all contracts and agreements necessary for the purposes mentioned in the preceding resolve; and said commissioners shall present all their accounts to the governor and council, to be by them audited and allowed, from time to time, as they deem just.

Governor to appoint three commissioners to purchase vessels.

Powers, &c.,—accounts.

Resolved, That for the purpose of defraying the expenses to be incurred under the preceding resolves, the governor be, and he hereby is authorized, by and with the advice and consent of the council, to draw his warrants upon the treasurer of the Commonwealth for the necessary sums of money, not exceeding in the whole, twenty thousand dollars; which amount is hereby appropriated therefor.

\$20,000 appropriated.

Approved October 28, 1859.

RESOLVE IN RELATION TO A STATUE OF HORACE MANN.

Chap. 113

Resolved, That full consent and permission upon the part of the Commonwealth, is hereby given to the application of S. G. Howe, Robert C. Waterston, George S. Boutwell, George B. Emerson, Alpheus Crosby, E. Edmunds, and Josiah Quincy, Jr., to set up a statue of the late Horace Mann upon any suitable spot within the state house grounds, which may be approved by the commissioners of the state house, and the chairman of the joint standing committee on the state house upon the part of each branch of the general court: *provided*, that the same be done without expense to the Commonwealth.

Erection authorized.

Proviso.

Approved October 28, 1859.

RESOLVE ON THE PETITION OF JOHN P. ANDREWS AND GEORGE ANDREWS, TRUSTEES.

Chap. 114

Resolved, For the reasons set forth in said petition, that John P. Andrews and George Andrews, of Salem, in the county of Essex, be, and hereby are, authorized and empowered to sell and convey, at public or private sale, and on such terms as they shall think expedient, a certain lot of land situate in Salem aforesaid, and bounded as follows, viz.: north-easterly on Boston Street, there measuring fifty-six feet three inches; south-easterly one hundred and twenty-seven feet three inches; north-easterly again four feet, and south-easterly again one hundred and eighty-seven feet to land formerly of Phipps Munroe; south-westerly on Norman's rocks pasture, so called, sixty-nine feet four inches; north-westerly on land formerly of the heirs of Mary Johnson, three hundred and three feet six inches, a twelve feet way being reserved to be used in common between said Munroe's land and the land herein described, being the same estate conveyed by deed of James Bott to Nancy Andrews, recorded in the Essex registry of deeds, in book three hundred and seventeen and leaf one hundred and fifty-five; and to execute good and sufficient deeds thereof, free and discharged from all trusts; and to hold the net proceeds of the sale of said estate subject to the same trust and uses as the original trust, referred to in said petition.

Trustees authorized to sell real estate.

Location.

Boundaries.

Approved November 12, 1859.

Chap. 115

\$60.50 allowed
for expenses
while sick.

RESOLVE IN FAVOR OF LUTHER STOWELL.

Resolved, That there be allowed and paid from the treasury of the Commonwealth to Luther Stowell, the sum of sixty dollars and fifty cents, to defray the expenses of his late sickness while a member of the general court.

Approved November 29, 1859.

Chap. 116

Compensation
and mileage.

RESOLVE FOR THE PAYMENT OF THE COMMITTEE ON THE REVISION OF THE STATUTES.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth to each member of the committee appointed to examine the Report of the Commissioners on the Revision of the Statutes, the sum of four dollars for each and every day's actual attendance at the meeting of said committee in the recess of the general court, and two dollars for every ten miles travel from their respective places of abode to the place of the sitting of the said committee, once during its session, and that the committee on the pay roll make up mileage and attendance of the members accordingly. Actual attendance under this resolve, shall include every day of attendance upon sessions of the committee, Sundays, days of adjournment not exceeding two days at any one time, and of sitting on sub-committees during sessions of the general committee, and sickness during the session.

Approved December 10, 1859.

Chap. 117

Increase of salaries of secretary of board of agriculture and assistant librarian, when to take effect.

RESOLVE IN RELATION TO SALARIES OF CERTAIN OFFICERS.

Resolved, That chapter forty-six of the resolves, and chapter sixty-four of the acts of the present year, relating to the salaries of certain officers, be construed to take effect from and after January first, eighteen hundred and fifty-nine, in accordance with the appropriations for the same provided in the act of eighteen hundred and fifty-nine, chapter two hundred and seventy-two.

Approved December 10, 1859.

Chap. 118

\$3,000 additional
to be expended.

RESOLVE IN RELATION TO THE NAUTICAL BRANCH OF THE STATE REFORM SCHOOL.

Resolved, That the commissioners appointed under authority of chapter one hundred and twelve of resolves of the present year, for the establishment of the nautical branch of the state reform school, be authorized to expend a sum not exceeding three thousand dollars in addition to the sum heretofore allowed.

Approved December 14, 1859.

Chap. 119

Compensation.

RESOLVE FIXING THE COMPENSATION OF THE OFFICERS AND MEMBERS OF THE LEGISLATURE AT THE PRESENT SESSION.

Resolved, That there shall be allowed and paid out of the treasury of the Commonwealth, to each member of the legis-

lature, for each and every day's actual attendance, the sum of four dollars. It shall be the duty of the committee on the pay-roll to certify, upon the written statement of members, to the treasurer of the Commonwealth, the number of days of each member's actual attendance, and such written statements of members shall be preserved in the office of the treasurer. The president of the senate and speaker of the house of representatives shall receive double the compensation above provided for senators and representatives. There shall be paid to the clerks and chaplains of the senate and house of representatives, a like sum as is now paid them, by the provisions of chapter second of the laws of eighteen hundred and fifty-eight; said sum to be paid on and after the completion of all duties required of and to be performed by them and their assistants at the present session, and to be in addition to their annual salaries. Actual attendance, under this resolve, shall include every day of attendance upon sessions of either house, Sundays, days of adjournment and of sickness during the session, and attendance on committees; but no allowance shall be made for attendance after the fifteenth day of December.

Actual attendance to be certified.

President and speaker, clerks and chaplains.

Actual attendance what to include.

Approved December 16, 1859.

RESOLVE FOR THE RELIEF OF CERTAIN MILITARY COMPANIES.

Chap. 120

Resolved, That there be allowed and paid by the Commonwealth the amounts actually paid by the several military companies for the transportation of their officers, non-commissioned officers, musicians and privates, and their camp equipage and luggage to and from the state encampment at Concord, under the orders of the commander-in-chief, over the several railroads. The accounts therefor to be audited by the adjutant-general, and paid to the captains of the several companies; and the governor is hereby authorized and required to draw his warrant therefor.

Expenses of transportation to state encampment.

Approved December 16, 1859.

RESOLVE RELATING TO CHARLES RIVER AND WARREN BRIDGES.

Chap. 121

Resolved, That there be allowed and paid out of the Charles River and Warren Bridges fund, a sum not exceeding two thousand one hundred dollars, for the purpose of paying such claims as may be approved by the auditor, for the maintenance and repair of said bridges between the first day of January and the nineteenth day of May of the present year.

\$2,100 allowed for maintenance and repairs between 1st January and 19th May.

Approved December 20, 1859.

Chap. 122 RESOLVE IN RELATION TO REPAIRS UPON CHARLES RIVER AND WARREN BRIDGES.

\$1,000 allowed
for repairs.

\$100 for incidental
expenses.

Resolved, That there be allowed and paid out of the Charles River and Warren Bridges fund, the sum of one thousand dollars for repairs, and one hundred dollars for incidental expenses upon said bridges, incurred since May the nineteenth, of the present year.

Approved December 20, 1859,

Chap. 123 RESOLVE FOR THE COMPENSATION OF THE JOINT SPECIAL COMMITTEE APPOINTED UNDER CHAPTER FIFTY-TWO OF RESOLVES OF EIGHTEEN HUNDRED FIFTY-NINE.

Balance allowed
to committee on
Maine lands.

Resolved, That the balance of appropriation made in chapter two hundred and seventy-two of acts of the year eighteen hundred and fifty-nine, to carry out the provisions of chapter fifty-two of the resolves of the present year, be allowed and paid to the committee appointed under that resolve, for services rendered and money expended by them.

Approved December 20, 1859.

Chap. 124 RESOLVE FOR THE PAYMENT OF THE COMMISSIONERS FOR REVISING AND CONSOLIDATING THE GENERAL STATUTES OF THE COMMONWEALTH.

\$20,000 additional
allowed.

Resolved, That there be allowed and paid to the commissioners appointed under chapter nine of the resolves of the year one thousand eight hundred and fifty-five, to revise the general laws of the Commonwealth, the sum of twenty thousand dollars in addition to the amount already paid; the same to be divided among themselves as they may agree, and to be in full for their services and all expenses incurred by them for assistance.

Approved December 21, 1859.

Chap. 125 RESOLVE FOR THE PAY OF THE CLERK, DOOR-KEEPERS, MESSENGERS AND PAGES OF THE JOINT SPECIAL COMMITTEE ON THE REVISION OF THE STATUTES.

\$1,150 to clerk.

\$4 per day to
messengers, &c.
\$2.50 per day to
pages.

Resolved. That there be allowed and paid out of the treasury of the Commonwealth, to the clerk of the committee appointed to examine the report of the commissioners appointed to revise the laws, the sum of one thousand dollars for his services as clerk, and the additional sum of one hundred and fifty dollars for his further services in finishing the journal and index; and that there be paid each messenger and door-keeper four dollars per day, and to the pages two and a half dollars per day, while in attendance upon said committee.

Approved December 21, 1859.

RESOLVE IN RELATION TO CERTAIN PROPERTY HELD BY THE COMMONWEALTH UNDER A MORTGAGE FROM NORMAND STILES AND PHEBE B. STILES.

Chap. 126

Resolved, That the treasurer and receiver-general be, and he is hereby authorized to dispose of and sell the whole interest of the Commonwealth in and to the estate conveyed in mortgage to John Mills, as treasurer of the Commonwealth, by Normand Stiles and Phebe B. Stiles, wife of said Normand, as appears by their deed dated December thirteenth, eighteen hundred and forty-three, and recorded with Hampden deeds, book one hundred and twenty-two, leaf three hundred and seventeen, and to execute and deliver deeds of the same, under the seal of the Commonwealth: *provided*, that the terms of such sale shall be approved by the governor.

Treasurer to dispose of the Commonwealth's interest.

Proviso.

Approved December 21, 1859.

RESOLVE CONCERNING THE STATE LIBRARY.

Chap. 127

Resolved, That there be allowed and paid to the librarian and trustees of the state library, a sum not exceeding five hundred dollars, to be expended in the purchase of law books, said sum to be reckoned a part and in anticipation of the annual appropriation for the year eighteen hundred and sixty in aid of said library.

\$500 allowed for purchase of law books.

Approved December 21, 1859.

RESOLVES PROVIDING FOR THE ERECTION OF CERTAIN BUILDINGS FOR THE STATE REFORM SCHOOL.

Chap. 128

Resolved, That the trustees of the state reform school for boys, be, and they hereby are authorized to re-construct so much only of the buildings destroyed by the late fire as constituted the first building erected for and occupied by said school, to re-arrange the same for the accommodation of the inmates in classes of not more than fifty boys each, and to provide sufficient precautions against fire; the whole expense therefor not to exceed eighteen thousand dollars.

Trustees to re-construct a portion of the buildings burnt.

Resolved, That the trustees aforesaid, are also hereby authorized to re-arrange and to enlarge the Peters house and the farm house, so called, belonging to said school, at an expense not exceeding six thousand dollars, and to construct one detached house upon said farm at a cost not exceeding six thousand dollars: *provided*, that the said houses shall be arranged for the accommodation of not more than thirty boys in each.

To re-arrange and enlarge the Peters house.

Proviso.

Resolved, That a sum of not more than thirty thousand dollars be, and the same is hereby appropriated for the purposes aforesaid.

\$30,000 appropriated.

Approved December 21, 1859.

Chap. 129 RESOLVES IN FAVOR OF JAMES RUSSELL AND DAPHNE F. CRANE.

\$400 to wife of
James Russell.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth to Lydia Russell, wife of James Russell, a member of the house of representatives, the sum of four hundred dollars, being the amount to which he would be entitled for actual attendance during the whole of the present session.

\$427 additional
to widow of Wm.
S. Crane.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth to Daphne F. Crane, of Berkley, the sum of four hundred and twenty-seven dollars, in addition to the sum already paid, as compensation for the services and the expenses of the last sickness of William S. Crane, deceased, late a member of the house of representatives from district number twelve of the county of Bristol.

Approved December 22, 1859.

Chap. 130 RESOLVE RELATING TO ATTENDANCE OF MEMBERS OF THE LEGISLATURE.

Two days in each
month allowed
for travel.

Resolved, That each member of the legislature living at too great a distance from the capital to allow time for going to and returning from his home out of the regular hours of legislative business, be allowed two days in each month of the session, for that purpose, *provided* he has actually occupied that amount of time in so going to or returning from his residence, and that he be paid for the same.

Approved December 22, 1859.

Chap. 131 RESOLVE FOR THE RELIEF OF JOHN P. BASS, PRIVATE IN COMPANY H, TENTH REGIMENT OF MASSACHUSETTS VOLUNTEER MILITIA.

\$750 allowed for
injuries.

Resolved, That there be paid to John P. Bass, private in Company H, tenth regiment of Massachusetts volunteer militia, the sum of seven hundred and fifty dollars for his relief, because of the loss of his leg from accident while in the actual performance of his duty as a soldier.

Approved December 23, 1859.

Chap. 132 RESOLVE FOR THE PAYMENT OF EXPENSES ATTENDING THE REPETITION OF THE ORATION OF MR. EVERETT ON THE INAUGURATION OF THE STATUE OF DANIEL WEBSTER.

\$200 allowed.

Resolved, That there be allowed and paid from the treasury of the Commonwealth a sum not exceeding two hundred dollars, to defray the expenses attending the delivery of the honorable Edward Everett's oration before the legislature, upon the inauguration of the statue of Daniel Webster.

Approved December 23, 1859.

RESOLVE FOR COMPENSATION OF WATCHMEN FOR SERVICES PERFORMED AS MESSENGERS.

Chap. 133

Resolved, That there shall be allowed and paid out of the treasury of the Commonwealth, to each watchman of the state house, the sum of one hundred dollars, in full compensation for all services performed as assistant-messengers during the session of the committee of revision of the statutes, and the extra session of the legislature, the same to be in addition to the annual salary. *Approved December 23, 1859.*

\$100 for services as assistant-messengers.

RESOLVE FOR THE COMPENSATION OF THE COMMITTEE ON FLOWAGE OF LANDS.

Chap. 134

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, to the committee appointed under chapter forty-seven of the resolves of eighteen hundred and fifty-nine, the sums appropriated for compensation and expenses of said committee; the same to be paid on the receipt of the chairman of the committee, and to be in full for all services and expenses incurred by the said committee.

Appropriation allowed.

Approved December 23, 1859.

RESOLVE IN FAVOR OF MARIA T. BENSON.

Chap. 135

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, the sum of four hundred dollars, to Maria T. Benson, widow of the late George W. Benson, Esquire, late a member of this house and of the committee on the revision of the statutes.

\$400 to widow of Geo. W. Benson, member.

Approved December 24, 1859.

RESOLVE FOR THE PAYMENT OF THE SERGEANT-AT-ARMS, DOOR-KEEPERS, MESSENGERS AND PAGES FOR THE PRESENT SESSION.

Chap. 136

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, to each of the door-keepers and messengers, and also to John C. Perry, (who has performed the duties of messenger,) the sum of four hundred dollars; to each of the pages, two hundred and fifty dollars, in full compensation for all services performed; and to the sergeant-at-arms three hundred dollars for his extra services during this session of the legislature.

\$400 to door-keepers, messengers, &c.

\$250 to pages.

\$300 extra to sergeant-at-arms.

Approved December 23, 1859.

RESOLVE REPEALING IN PART CHAPTER FIFTY-TWO OF THE RESOLVES OF THE YEAR EIGHTEEN HUNDRED AND FIFTY-NINE.

Chap. 137

Resolved, That the second, third and fourth resolves of chapter fifty-two of the resolves of eighteen hundred and fifty-nine, being "Resolves to enforce payment of debts due to the Commonwealth on account of sales of the public lands in Maine," be, and are hereby repealed; and that the

Forfeitures for non-payment, &c., repealed.

Executive to ad-
just and settle
claims.

governor and council be authorized to adjust, compromise and finally settle all the notes and claims of the Commonwealth in relation to the Maine lands, on such terms as the interests of the Commonwealth may require, and as may be just and equitable to the parties interested.

Approved December 27, 1859.

Chap. 138 RESOLVE IN RELATION TO APPENDING A GLOSSARY TO THE GENERAL STATUTES.

Commissioners
on publication
to prepare and
print.

Resolved, That the commissioners who may be appointed to edit and publish the general statutes be instructed to prepare and have printed with the general statutes, a glossary, defining and briefly explaining all words and phrases contained in the statutes belonging to any foreign language, and the more obscure of such other words and phrases as are merely technical.

Approved December 27, 1859.

Chap. 139 RESOLVE AUTHORIZING PAYMENT OF EXPENSES INCURRED BY THE COMMITTEE ON THE LIQUOR COMMISSION.

\$451 allowed.

Resolved, That there be allowed and paid out of the treasury of the Commonwealth, a sum not exceeding four hundred and fifty-one dollars, to pay expenses incurred in reporting testimony and for pay of witnesses before the house committee upon the liquor commission.

Approved December 27, 1859.

Chap. 140 RESOLVE RELATING TO THE PUBLICATION OF THE GENERAL STATUTES.

Commissioners
appointed.

Resolved, That the Hon. William A. Richardson, and Hon. George P. Sanger, be and hereby are appointed commissioners to edit and superintend the printing and publication of the general statutes of the Commonwealth, together with the constitution thereof, the constitution of the United States, and such other additions as they deem expedient; and that said commissioners examine carefully the copies of said statutes, transcribed in the office of the secretary of the Commonwealth from the originals, and compare the same with the originals, and carefully revise all the proof sheets of said statutes; and said commissioners shall place the subject of the chapter or page at the top of each page, and prepare marginal notes to the sections of said statutes, and an exact and copious index to the whole; and in the performance of said work, the secretary of the Commonwealth shall furnish such assistance of clerks as the commissioners deem necessary

Duties.

Secretary to fur-
nish clerical as-
sistance.

Approved December 27, 1859.

RESOLVE MAKING AN APPROPRIATION FOR WARMING AND VENTILATING THE REPRESENTATIVES' HALL.

Chap. 141

Resolved, That a sum not exceeding three hundred dollars be allowed and paid under the direction and approval of the commissioners on the state house and the chairman of the committee on the state house on the part of the house of representatives, to defray the necessary expense of further prosecuting the present method of heating and ventilating the representatives' hall; and said sum is hereby appropriated. \$300 allowed.

Approved December 27, 1859.

RESOLVE AUTHORIZING THE TRANSFER OF CERTAIN APPROPRIATIONS FOR MILITARY PURPOSES.

Chap. 142

Resolved, That there is hereby transferred to the account of military bounties the sum of one thousand five hundred and fifty-five dollars and fifty cents, from any sums appropriated for other military purposes by the seventy-seventh chapter of the acts of the present year. Transfer of
\$1,555.50.

Approved December 28, 1859.

RESOLVE RELATING TO THE DISTRIBUTION OF THE GENERAL STATUTES.

Chap. 143

Resolved, That the secretary of the Commonwealth, as soon as may be after the close of the general court, cause to be printed and bound, and receive for distribution one thousand copies of the general statutes of the Commonwealth, for the use of the Commonwealth, and that he deposit one copy of the same in the office of the secretary of the Commonwealth, and immediately after their publication distribute copies as follows: To each of the commissioners and editors on the revision of the statutes, five copies; to the clerk of the senate for the use of the senate, twelve copies; to the clerk of the house of representatives for the use of the house, twenty-four copies; to the librarian of the state library for the use of the library, five copies. To the following officers and persons one copy each: to the governor, the lieutenant-governor, each member of the present council, senate, and house of representatives, the clerk of the senate and the clerk of the house of representatives, and each reporter in regular attendance upon the sessions of either house, the attorney-general, the auditor of accounts, the treasurer and receiver-general, the adjutant-general, to each ex-governor of the Commonwealth, the judges, clerks and registers of the judicial courts, the district-attorneys, the county commissioners, the sheriff and keepers of jails, the registers of deeds, the keepers of the houses of correction, the warden of the state prison, the county treasurers, the several cities and towns for the use of such places, to each

Secretary to receive 1,000 copies for distribution.

city or town library in the state, Harvard University, for the law library, Harvard University, Williams College, Amherst College, Tufts College, the American Academy of Arts and Sciences, the Massachusetts Historical Society, the Historic Genealogical Society, Museum of Comparative Zoölogy, the Old Colony Historical Society, the Boston Athenæum, the American Antiquarian Society, in Worcester, the Pilgrim Society, in Plymouth, the law library societies in each county, the judges of the supreme court of the United States, the judge of the district court of the United States for the district of Massachusetts, the clerks of the courts of the United States for the district of Massachusetts, the secretary of state of the United States, four copies, the secretary of each state of the Union for the use of the state, three copies, to the library of congress, three copies.

Approved December 28, 1859.

Chap. 144 RESOLVE PROVIDING FOR THE PUBLICATION OF THE GENERAL STATUTES.

Commissioners
on publication
to contract for
printing, bind-
ing, &c.

Resolved, That Hon. William A. Richardson and Hon. George P. Sanger, commissioners appointed to superintend the publication of the general statutes, be, and hereby are authorized in the name and in behalf of the Commonwealth, but without cost to the Commonwealth, to contract with William White, of Boston, to print, bind and furnish for sale to the state, or to any citizen of the state, the general statutes of the Commonwealth, with the constitution of the state, the constitution of the United States, and all the addition to said statutes, prepared by said commissioners under the direction of the legislature, in a manner in every respect equal to the Revised Statutes printed in the year eighteen hundred and thirty-six, particularly as to composition, press-work, paper and binding; and to keep the same for sale in some convenient place in the city of Boston, for the term of fifteen years, from the first day of June next, at a price not exceeding one dollar and forty cents per copy, said contract to provide that the electrotype or stereotype plates of said general statutes shall be and remain the property of the Commonwealth. A bond satisfactory to said commissioners shall be given by the said William White to the Commonwealth for the faithful performance of the contract. The other provisions of the contract shall be such as the said commissioners deem expedient to secure the faithful execution of said contract: *provided*, that none of the existing provisions of law, relative to the printing, promulgation and distribution of the statutes shall be construed to apply to the said general statutes.

Approved December 28, 1859.

Price.

Bond.

Proviso.

SPECIAL MESSAGES.

THE FOLLOWING SPECIAL COMMUNICATIONS WERE MADE BY HIS EXCELLENCY THE GOVERNOR, TO THE LEGISLATURE, DURING THE EXTRA SESSION ENDING DECEMBER TWENTY-EIGHTH.

[To the House of Representatives, September 7.]

It is an unpleasant official duty that devolves upon me, to present to the legislature information of the destruction by fire, of a large part of the buildings of the State Reform School at Westborough. The fire occurred on the morning of the 13th day of August, from the intentional act, as it appears upon his confession, of Daniel Credan, one of the inmates of the school.

The circumstances of the disaster are fully detailed in the report of the Trustees dated the 23d day of August, and in a communication of the Hon. Simon Brown, chairman of the Board, which I have the honor to transmit herewith.

The loss incurred by the fire is estimated at \$50,000. The State is greatly indebted to the officers of the institution, to the boys of the school, for their good conduct and praiseworthy exertions to save the property and the buildings from conflagration, and also to the fire companies and citizens generally, of the neighboring towns; and to the authorities of the county of Worcester, under the direction of the Hon. J. S. C. Knowlton, high sheriff, and of the city of Boston, for the prompt, efficient, and greatly needed assistance rendered by a detachment of police officers, under the direction of Lieutenant Whitcomb.

Of the boys, numbering 572, only two escaped during the fire. A portion, about two hundred and fifty, were transferred to very comfortable quarters in the new jail at Fitchburg. In this transfer sheriff Knowlton and the police officers rendered essential and important service. A part of the boys, about twenty-five in number, were sent on the same night to the jail at Concord. Most of these have been received again at Westborough. Those sent to Fitchburg still remain.

The fire destroyed the whole of the buildings included in the enlargement made in 1852 and 1853, and a small part of the original structure. I inclose herewith, a ground plan of the premises, showing the portions destroyed and those which remain in condition for present occupation.

In a conference with the Board of Trustees, and the Superintendent of the institution, I advised the immediate repair of that part of the premises which could be made tenantable at small expense, and an arrangement with the authorities of Worcester County for the present use of the jail at Fitchburg. The officers of the institution failing to make an acceptable contract for the use of the jail, a lease of a building in Westborough, belonging to Mr. Vinton, has been entered into by the Trustees, for the term of one year, at a cost of \$700. This will afford comfortable accommodations for all the pupils not provided for in the school, except six or eight boys who remain at Concord. These arrangements have necessarily been made without authority of law, and the attention of the legislature is called to the subject, and also to the necessity of providing for such expenses as have been thus far incurred. I transmit a communication of the Executive Committee of the Board of Trustees, setting forth the arrangements which have been made, and the present condition of the remaining buildings; and a letter of the Attorney-General upon the present legal condition of the boys, and the authority by which they should be held and governed.

It is my duty to call the attention of the legislature to the necessity of early action upon the subject thus unfortunately presented, and also to present some considerations as to the system upon which the school has been managed up to the present time.

During the twelve years since its establishment, 2,409 boys have been received as pupils, and of this number 557 remained in the school at the close of the year ending September 30, 1858. Others had been discharged or were apprenticed to proper occupations. Of the number thus discharged, a very large proportion, it is believed, have been thoroughly reformed, and promise a useful career as citizens of the Commonwealth.

It is not to be expected of boys, brought together under circumstances like those that control the selection and reception of the pupils of this institution, that all will maintain reputable characters. This can scarcely be anticipated of the graduates of any educational establishment. The school at Westborough suffers in common with other

institutions, but in far greater degree, of course, from the nature of its materials and the impossibility of impressing upon a partially depraved nature a full appreciation of the individual happiness that springs from a life of rectitude. Enough has been done, however, to show that the worst natures, vitiated by evil examples, or by want of proper instruction and parental authority, may be thoroughly reclaimed, and by patient and wise attention to physical, mental and moral deficiencies, a good character may be engrafted upon a stock of such vicious tendencies, as to promise at the outset scarcely a possibility, and no reasonable probability, of a healthy and satisfactory result. This is another verification of the words of the great Master of Nature:—

“ We are never at the worst
When we can say, this is the worst.”

The advantage to the State of such reformation is two fold. It secures what, in its individual character, is seldom duly estimated; the contribution to the public wealth of an honest, industrious, enterprising and intelligent life of nearly forty years' average duration—for the term passed in the institution in acquiring information and an established moral character is to be included in the useful part of a career, as much as the time spent in invention or manufacture of machinery—and at the same time, and by the same means, it protects society for a like period, from crimes against property, liberty and life.

These are double advantages which the State and its people derive from the successful operation of a school like that established at Westborough. And if, in such schools, success be more doubtful, it must also be said, that when attained, it greatly enhances corresponding advantages and honors.

In this respect the State has been well compensated for its care and expenditure of money. That there are defects in the system upon which it is established, must be admitted, and the disaster of the present year offers an opportunity for their correction which cannot wisely be neglected. Its defects do not present themselves so much in the inspection of the school itself, as in examination of the principles upon which it is founded and in tracing the career of its pupils.

It is, of course, impracticable to follow out each of these; but, in some instances, its untoward results may be noted

in the condition of other institutions. I have caused careful inquiry to be made in some of the institutions of the Commonwealth, during the past year, with a view to ascertain what influence this school produces upon its criminal population. The result, I regret to say, is not as satisfactory as could be wished. Of convicts in the State Prison, not much less than a tenth part are graduates of the State Reform School.* This proportion, were it a necessary result of the attempt at reformation, would still be far from discouraging the efforts so honorably and sincerely made, to reclaim juvenile offenders. But it is not. It is to be charged, in my judgment, to defects in the system upon which it is organized, and not upon the management of the school. In this respect, I am led to believe, it has been without serious fault. Nearly thirty of the most intelligent citizens of the Commonwealth, representing all classes and all interests, have been, since its establishment, connected with the government of the school. So far as I am informed, no person, thought to be qualified for the work, has declined service when called upon to render it. The periodical examinations and reports of the body of Trustees have been thorough, and have, from time to time, suggested defects under which the school labored. They have employed, in every instance, competent and faithful officers and teachers.

The State Reform School was established upon a Resolve approved April 16, 1846, instructing commissioners to procure an eligible site, by gift or purchase, for "a manual labor school, for the employment, instruction and reformation of juvenile offenders," and a sum not exceeding ten thousand dollars was appropriated for the purpose. The Resolve was passed upon petitions to the legislature, numerously signed, by judicial officers and other persons representing the leading interests of the State.

The able commissioners appointed under this Resolve were aided at the outset, in their very difficult and responsible task, by the wise and practical suggestions of a distinguished citizen, the late Hon. Theodore Lyman, who had given much attention to this subject, and who accompanied his suggestions by a donation of ten thousand dollars, upon the single condition that the State should contribute an equal sum, if the commissioners were of opinion that so

* The exact number of convicts now in the State Prison, who were formerly in the school at Westborough, and whose names have been returned to the executive department, is forty-five. The list is believed by the officers of the prison not to include all from the Reform School.

much could wisely be expended for this purpose. This donation was afterwards increased to the amount of seventy-two thousand and five hundred dollars. The name of the generous donor was not made known to the public until after his death in 1849. It has been often stated by those representing this institution, that but for the generous and timely donation and bequests of Mr. Lyman, the State Reform School could not have been established. He may, therefore, justly be honored as its founder, and the legislature in selecting a title, would probably have connected his name with the institution but for earnest remonstrances of those representing his family, who feared that the incorporation of the name of any individual with its title might possibly lessen the interest of the State in its welfare, and tend to a withdrawal of that support and supervision indispensable to its existence. It was upon this suggestion, styled the State Reform School.

Mr. Lyman had rendered other important services to this, his native State. Inheriting an ample fortune from his father, who left an honorable reputation as one of the founders of the commercial prosperity of Massachusetts, he devoted nearly his whole life to public interests. He made valuable additions to the literature of the country, as the fruits of his early travel, and contributed to its historical literature a history of the Diplomacy of the United States—at the time of its publication one of the most important and learned works upon that subject. He officiated for several years as mayor of the city of Boston; interested himself and contributed liberally in her public charities, and to all the benevolent enterprises of the State; held responsible positions in its military organizations; gave attention to the subject of agriculture and was an active member of the State Horticultural Society, to which he made a donation of \$10,000. He was long connected with the government of the Farm School on Thomson's Island, and served as president of the association for the improvement of prison discipline from 1847 to the period of his death. During the whole of his career, in his early studies and travels in Europe, and as mayor of the city of Boston, he manifested great interest in the subjects of crime and criminals; the discipline of prisons; the possible reclamation of offenders, and their restoration, especially of those young in crime and in years, to the pursuits of useful and honorable citizenship. It is to the practical and profound studies, the patriotic, benevolent and generous nature of such a man, that Massachusetts owes the establishment of the first State

institution on the American continent, for the employment, instruction and reformation of juvenile offenders.

This is no slight honor in the history of the State or of the founder of the school. But it is still more to the honor of Mr. Lyman, that it can be said, as it may without exaggeration, that every defect exhibited in this institution since its establishment, has been occasioned by a palpable departure from the eminently wise and practical suggestions made by him for its direction and government.

It will be useful in view of its present condition, to recall these suggestions, as they are presented in a reply to interrogatories of the commissioners for the establishment of the School, which is printed in the documents of the house of representatives for the year 1847.

1st. He recommended that the buildings "should have iron or stone stair cases, wide passages and easy and obvious means of escape in case of fire, especially from the sleeping rooms; and the rooms and the parts remote and little visited so finished *that they cannot be set fire to, as the incendiary propensity is very strong in some boys.*"

2d. That as to age of admission, boys over 14 years *should not be admitted*. Boys of that age, he says, are difficult to manage. If they have been for some time in a vicious course, they become hardened, and being bad themselves, are very fit to make others bad. The exceptions under this rule as to admissions when under fourteen years should be in cases of boys that have shown a very depraved disposition; for a few boys of that description in the school might retard if not prevent the reform of others and receive no benefit themselves. Where the probability is very strong that a boy is not susceptible of reformation, he should not be admitted, because the probability is greater that he will do harm to others than that he will derive benefit himself. No rule should be made against admission except where the offence manifests great and especially deliberate depravity.

3d. "COMMITMENTS SHOULD BE MADE BY COURTS ALONE. The institution should be considered a PLACE OF PUNISHMENT as well as a place of reform, and as under the authority of the State. It will otherwise do little good. If thought to be a school and farm, where boys are only obliged to learn and work, many boys will not be unwilling to go, and parents will not be unwilling to send them. I should give no character of disgraceful punishment to the institution," he says, "but the character of a State School with an established system of rules and government and discipline, where boys are received *because they are not fit to be at*

large, and where they are kept and trained *until* they are considered fit to be restored to society."

4th. Provision should be first made for *one hundred*, with arrangements to extend if required. The nature of his view of enlargement is fully expressed in the codicil to his will, by which he bequeathed to "his native State" fifty thousand dollars "to establish in the town of Westborough an institution or *institutions* for the discipline, instruction, employment and reformation of juvenile offenders."

5th. "Discharge of boys must be a matter of discretion, and the rule should be, *that the boy should serve out his time*, and the exceptions to this rule should be extraordinary ones. No power should be used with more caution in public places of punishment, than the power to pardon, for no power is more liable to abuse."

It will be found, I believe, that the contravention of these suggestions in the organization and management of this school has been the cause of its failure to answer the utmost expectations of its friends, and also of its present disaster. Other wise recommendations in relation to employments, amusements, ventilation, furnishing occupations, and money upon discharge, &c., which do not now call for especial consideration, are suggested by the founder.

There has been manifestly a failure in the construction of the buildings with reference to the "incendiary propensity" which he describes.

The disregard of his views as to age of admission, has been prolific of evil. Scarcely a report has been made by trustees which does not refer to this subject. Pupils have been rejected by the trustees in the exercise of a high discretion, which they must of course be reluctant to exercise against authorities for commitment, sometimes on the ground of *idiocy* and of deficiency or excess of years. Attention has been constantly called to this error by trustees. So lately as in the report for 1857, it is said that "boys have been sent to the school so young that they were better fitted for the nursery than the more rigid discipline of the Reform School." There seems in many instances, an entire disregard of the consideration, whether the candidate for admission had such bodily strength as to require greater vigilance and more restraint than would be necessary for the average number of inmates. This has greatly enlarged the number of commitments, a fatal error in the system, and rendered the classification which is indispensable to reform, impossible.

A like error in the other extreme, has diminished its correctional power. It was the wise suggestion of the founder that boys over fourteen years of age should not be admitted, and boys under that age, who had shown "a very depraved disposition," should be made exceptions to the general rule of admission. That there has been an entire disregard of this view is shown by nearly every report of the trustees. The average age of pupils has been for the last year over thirteen years, and twelve years and three-quarters for the whole term of the existence of the school. In the year 1856, *twenty-eight boys were received over sixteen years of age*. The legislature, upon the urgent recommendation of trustees, to remedy this evil, arising from the inadvertence of magistrates or misrepresentations of friends, required that the mittimus should set forth the ages of boys committed. Other regulations will be required, in my judgment, entirely to remove this difficulty. In the very last report of the trustees, the serious attention of magistrates is called to the question, "whether, after two or three arrests and convictions, and especially, when the boy is advanced to the age of fourteen years, he is a fit subject for our school; whether the probabilities of his reform are not so small, and his influence on the younger and less vicious boys so deleterious as to properly exclude him from the institution?"

The short term of sentence is another constant complaint of trustees running through these reports for twelve years. "A long sentence is more effectual than a short one." The second report, in 1849, calls especial attention of judicial officers to the subject; and in 1857, the trustees, in complaining of the large number of boys committed during the preceding year, on "short sentences," find it "necessary again to remind magistrates that the tendencies of such committals is almost wholly to frustrate the original design of the founder of the institution." It is probable that the large number of boys from the Reform School, now convicts in the State Prison, to which I have referred, are the victims of this misjudgment as to term of sentence. So far as its influence extends, it changes entirely the character of the institution, making it one exclusively for punishment instead of punishment and reform. It is a departure from the purpose of the law, as from that of the founder of the school. He required that boys should remain until they were "considered fit to be restored to society."

The class of offences for which committals to the Reform School were intended to be made, has been entirely changed,

to the detriment of the institution. It was intended as a refuge for juvenile offenders against law, who, except for its establishment, would have been consigned to prisons and penitentiaries, as punishment alone, and without especial reliance upon the principles of instruction, employment or reformation. That this was its purpose, is readily gathered from every record of the institution, the law creating it, the reports of commissioners, of trustees, and officers, from the instructions of its founder, and the express object and purpose of its establishment, as suggested by Mr. Lyman, by the commissioners who organized it, and also as indicated by the liberal donation from the estate of Mrs. Lamb. Instead of this, it has been made, to a very considerable extent, a means of support for indigent children, and a substitute for parental authority. This is seen in a single fact, running through every year's experience of the institution. Of two thousand four hundred and nine boys, received previous to September 30, 1858, one thousand and twenty-eight were sentenced for *stubbornness*; and if you add to this number those sent as vagrants, (143,) and idle and disorderly boys, (107,) it constitutes a class numbering (1,278,) more than one-half the entire population of the institution, from its foundation. It is unquestionably true that the State should make provision for indigent, idle, wandering and stubborn boys, but it ought never to be done in the State Reform School, which was designed for an entirely different and higher purpose, inconsistent with the object of mere support, instruction, or family government. Nothing could be a greater departure from the expressed views of the founder of the institution. It ought to be said, also, that every board of trustees, as well as most of the superintendents and chaplains, have called the attention of magistrates and legislators to this fact.

No boy should be sent to the school upon the sole charge of stubbornness. It would not answer to imprison every stubborn man. Stubbornness and firmness are divided by very light and sometimes by almost indistinguishable lines. It is a charge which is capable of indefinite extension and application, and may cover the lightest or the most serious offences.

"Obstinacy," said Mr. Burke, "is certainly a great vice; and is frequently the cause of great mischief. It happens, however, very unfortunately, that almost the whole line of the great and masculine virtues,—constancy, gravity, magnanimity, fortitude, fidelity, and firmness,—are closely allied to this disagreeable quality, of which there is such

just abhorrence, and in their excess, all these virtues very easily fall into it."

I can hardly forbear the citation of a religious authority upon the same subject, not wholly disconnected with the civil and religious education of our fathers. Sir Thomas More, in denouncing the alleged heresies and setting forth the opinions of Tindalle, says: "If anye Prince would by any lawe or commandement compel hys people to anye of those things; Then Tindalle here plainly techeth thi that they may and must stiffely withstand hys tyranny. So that fynally concerning obedience, Tyndalle's holy doctrine is: that the people should in defence of hys (Tindalle's) false heresies not let to disobei, but *stubbernyly* to withstande their Prince."

It is not my purpose to encourage or recognize as necessary evils, stubbornness, idleness, vagrancy, or other fault of this character, but to call the attention of the legislature to the impolicy of so blending them with the institution at Westborough as greatly to enfeeble, if not to destroy, its capacity for the high duties marked out for it, in the philanthropic economy of individual generosity and State legislation.

If any duty is unperformed, any law violated, any right infringed, let the offender be punished for the act done, not for a quality of mind, which may color good as well as bad actions. I do not appreciate the necessity, at great expense and by extraordinary measures, of weeding every element of firmness out of the character of the youth of our State. I would especially call the attention of the legislature to the history of the statutes, in virtue of which this large number of commitments has been made, and to the very wide range of offences, covered not only by the same act but the same section. It is only when stubbornness leads to a criminal violation of law for a criminal purpose, that it should be recognized by the institution at Westborough. Stubbornness is less an incentive to crime than ignorance. A man may be stubbornly right as well as stubbornly wrong; but ignorance is never an advantage. It is clear that, considering ignorance as an incentive to crime, we could not imprison every ignorant man or boy: and it is equally clear, in my opinion, that no boy should be sent to the Reform School upon the single charge of stubbornness. If through ignorance, idleness, vagrancy, or stubbornness, he has been led into crime, let the record of his conviction set forth the crime as well as the cause. This was the original intention,

and the wide departure from this purpose has been in many respects fatal to the usefulness of the school.

It was a serious and most important question in the inception of this institution, who should be invested with authority to sentence criminals to the school for reform. "Should commitments be made by courts alone, or by others, and if so, by whom?" asked the commissioners. "By the courts alone," answered the founder of the school. "The institution should be considered a place of punishment as well as a place for reform. It will otherwise do little good."

The statute of 1847, approved April 9, authorized sentence to the Reform School to be pronounced by any court or justice. For the greater part of the time, therefore, there have been eight or ten thousand committing magistrates. The third report of the trustees makes especial allusion to this subject, (page 4,) in connection with the charge of stubbornness. It came to be understood, as was anticipated by Mr. Lyman, that the institution was a school and farm where boys were only obliged to learn and to work, and boys were willing to go, and parents, because of the want of means of support or instruction, on account of family reasons, inefficiency of parental authority, or a fear of misfortune, have been content to send them there. The result of this facility of commitment has been, that in a little more than a year after its organization, the trustees were obliged to give public notice of their inability to receive more boys; and this notice has often been repeated since. The institution has been crowded to overflowing, until, in the last year, there were at one time six hundred and thirty-nine pupils, and an average of five hundred and ninety through the year.

There can scarcely be a doubt, if the views of him who so munificently endowed the school had been more closely followed, the authority to commit limited to the "courts alone," the list of offences for which commitments were made reduced to that class tried in courts and punished in prisons and penitentiaries,—that the number of boys would have been reduced one-half, to their advantage and to the reputation of the school. This would have reduced the number of pupils to three hundred, which was the number contemplated by the law erecting the school.

In the reconstruction of this institution, it seems imperative that we should recur to the views of those who were its creators; and following their views, guided by the light of

twelve years' experience, it may happen that as much of good as evil will arise from the disaster of the last month.

It seems to me that it is clearly inpolitic for the Commonwealth to re-establish the school upon its present system. It will be far better to return to the ideas upon which it was founded, the correctness of which has been so completely shown in the experience of the past; especially should we regard the necessity of bringing it, so far as numbers are concerned, to the "moderate and limited scale" suggested by Mr. Lyman. Not more than two hundred boys should be brought together in one building; and that should be so constructed as to admit of a perfect classification as regards instruction, amusement, employment, and also temperament, propensity and character; it should be such as to admit of entire separation and isolation, if necessary, for incorrigible boys. The annual expenses of the institution can be greatly reduced by the introduction of a greater variety of employments, and secure both to the public and to the pupils more certain and important advantages than have been yet received from the institution.

The present time affords a favorable opportunity for the consideration of the subject of nautical schools. In the great national interest of commerce, in which Massachusetts ranks as a pioneer, and still maintains an honorable position, no greater evils are experienced than those which arise from scarcity of American seamen. In our ships employed in foreign trade, it is stated upon high authority, that not more than one-fifth or one-fourth of the seamen are Americans.* Other nations are making great exertions to increase the number of efficient seamen. England pays them liberal bounties on entering her service, and France has encouraged this branch of her maritime interests, by paying a bounty equal to twenty-five per cent. to those employed in her fisheries. In our own country, sea service, one of the most important to which men can be called, either as it regards the prosperity of the country or the honor of its flag, receives no favor from government, alike to the detriment of commerce and the strength of the navy, which is in *men* rather than in ships or engines of war. American seamanship, in contradistinction from other national vocations, fails to maintain its reputation and its capacity. The fisheries, the early and prolific nursery of American seamen, are rapidly declining, and upon the threatened withdrawal of the existing

* Memorial of Robert B. Forbes, Esq., to Congress, on the subject of Floating Schools for the education of seamen.

light bounty, will fail long to contend against English and French competition. There is no institution of the general government in which young men are made seamen. No State has entered upon this duty; and unlike every other calling, there is no opportunity, except in a single school of this character in the city of Baltimore, for those who desire to become educated seamen.

Will it not be wise for the legislature to consider the expediency of making some provision of this character, for the surplus energy and intellect of its misdirected youth who now are led to criminal courses, and end with the life of the convict?

Americans love the sea. They are, as it was said by the first Napoleon, the best sailors in the world. No career offers a more certain and liberal compensation for intelligent enterprise. There is no surer avenue to individual and national prosperity, than that which lies in the direction of an extension of commerce. It is a rational substitute for the barbarian filibusters of the age. We want commerce and not dominion. To maintain commerce, we must obtain seamen. The romance of a depraved youth generally leads him to the sea. His readings are from the pages of Defoe, Cooper, Byron, Marryatt and Falconer, whose glowing portraitures have drawn from the hearth-stones of inland homes, as well as from city haunts, in times past, the best or the wildest of their sons. The terrible disasters that occur at sea, which have engulfed so many of our people, are caused or increased in too many instances, by the scarcity or incompetency of seamen. Bad seamen make inefficient officers; and good seamen render it impossible that incompetency shall maintain the highest position on the quarter deck. Is it not practicable to turn, therefore, something of the excess of vicious youth, to pursuits so congenial to many, and which will minister so directly to their own advancement in honorable courses of life,—to the enlargement of our commerce,—to the security of ocean travel,—to the prosperity of the people,—the extension to other lands of the principles of American liberty, and to the honor of the American flag?

A vessel of seven hundred tons would accommodate, I am informed, two hundred and fifty boys. It could be purchased for this purpose for \$5,000 or \$8,000. It is not impossible that a condemned government ship, in every respect suitable for this purpose, could be obtained at a favorable opportunity, from the General Government, which could hardly fail to favor a sale of an unseaworthy ship of the line, for such an object, at a reasonable cost: and it is probable that in a

period of greater commercial prosperity than the present, those engaged in the merchant service would liberally contribute in aid of an enterprise of this kind. Boys could be received on board ships, of a riper age than at Westborough. A more stringent discipline could be enforced, and good conduct and rapid advance in study, be rewarded by promotion to honorable offices and duties on board ship. At the age of fifteen or sixteen years, after study and practice of one or two years, they would be received in the merchant service at wages, and as educated seamen, have opened to them profitable and respectable courses of life.

If the legislature should hereafter, upon due investigation, and upon proper aid rendered by other parties interested, think it expedient to enter upon a limited experiment of this character, to Massachusetts would belong the honor of having established the first State Reform School for Boys; the first State Industrial School for Girls, and the first State Nautical School for educating seamen.

There is one consideration that enforces upon the legislature a liberal view of the necessities of the State Reform School at Westborough, as regards appropriations and expenditures, though I can entertain no doubt that in this, as in all benevolent enterprises, the legislature will maintain the high character of the State for a generous providence in behalf of the unfortunate.

It is stated in the second report of the trustees, that in addition to the sum of \$12,500 given by the then unknown donor, with which the entire farm had been purchased, they had received from the same source ten thousand dollars upon condition that the State should pay an equal sum. This was paid and invested "according to the conditions prescribed by the giver as a permanent fund," the income of which was to be expended for the benefit of the school. In the third report, after the decease of the donor, it is announced that by his will, he left the sum of \$50,000 in addition to his former donations, as a legacy to the institution—making \$72,500. "Twelve thousand five hundred dollars," it is stated, "were employed in purchasing the two farms on which our establishments are located; and the remaining sum of sixty thousand dollars, which includes the ten thousand already received and invested, will, *in accordance with the directions* of the testator, be invested as a permanent fund, the income of which is to be used at the discretion of the Trustees," to promote the prosperity of the institution.

It does not appear from the language of the codicils that the bequest was coupled with this condition, but there can be no doubt that such was the intention of the testator, and such the understanding of the representatives of the institution. When the enlargement was made in 1853, as it appears by the seventh report, the expense, amounting to \$54,752, was "met by an appropriation from the Lyman Fund of \$50,000, leaving but \$4,752 to be provided by the legislature. There can be no doubt that this appropriation was justified by the terms of the will, and as little, I suppose, that it was different from that intended by the testator, or anticipated by the trustees that received it in behalf of the State. The buildings, included in the enlargement, having been erected from the Lyman Fund, and now destroyed by fire, it will appear,—if the legislature shall decline appropriation for the restoration of the school upon a safer foundation,—that the State, by an enlargement not contemplated by the founder, and an appropriation of his bequest not anticipated nor intended by him, as his purpose was interpreted by those who received his directions, having expended in a fruitless work the proceeds of his philanthropic generosity, is disinclined to replace from its own treasury an amount equal to that lost to the Lyman Fund by the enlargement and the late conflagration. I trust that will not be the conclusion of the legislature, but that, with wise liberality, and wisdom enlarged by experience, this first and greatest work of any State for the reformation of juvenile offenders will be placed upon a more permanent foundation, with enlarged opportunity and power for the full completion of its beneficent and patriotic purpose.

[To the Senate, September 7.]

By an Act of the legislature, approved on the fifth day of April, 1859, it is provided: "That his excellency the governor, his honor the lieutenant-governor, the secretary of the board of education, the attorney-general, the secretary of the Commonwealth, the treasurer and receiver-general, and the auditor of accounts, be and hereby are authorized to effect for and in behalf of the Commonwealth, a purchase of the estate known as the Hancock House, if in their unanimous judgment and discretion, after all necessary investigation and examination, it be deemed expedient for the Commonwealth to make such purchase: *provided*, that not more than one hundred thousand dollars shall be paid therefor, and that no alterations in the external or internal arrangements of said house be made, otherwise than to keep

the same in good repair while it remains the property of the Commonwealth, and that it shall never be used as a residence for the governor of the Commonwealth." And further, that "If such purchase shall be made, they shall communicate the fact to the legislature at the session to be held in September next, and shall accompany their communication with a recommendation as to the uses to be made of said estate in the future, together with an estimate of what expense and outlays will be necessary for its repair and maintenance." An Act of the same legislature, approved April 5, 1859, entitled "An Act establishing the Superior Court," section 36, provides that "a law term of the supreme judicial court shall be held at Boston, on the first Wednesday of January of each year, which term may be adjourned from time to time, to such places and times as may be most conducive to the dispatch of business and the interests of the public; and all questions of law, whether arising upon appeal, exceptions or otherwise, and from whichever court, shall be therein entered and determined, if the same arise in either of the following counties: Essex, Suffolk, Middlesex, Norfolk, Plymouth, Bristol, Barnstable, County of Dukes County, or Nantucket, and all questions of law in criminal cases."

This provision of the statutes makes the law term of the supreme judicial court emphatically a State law term, and may require that other provision for the accommodation of the supreme court than that now existing in the county of Suffolk should be made by the State. In answer to a communication addressed to his honor Frederick W. Lincoln, Jr., mayor of the city of Boston, inquiring whether, by lease or otherwise, suitable accommodations for the law term of the supreme court, under the recent Act, could be furnished, I am informed that, as far as possible, the city is willing to furnish, without charge to the State, the same rooms now occupied by the supreme court in transacting the business of the county of Suffolk; but that if the court should hold two sessions at the same time, another room cannot be furnished without enlarging the court house, which is not likely to be done at present.

I transmit to the senate, for the use of the legislature, a copy of the correspondence, and also a copy of a report of the board of aldermen of the city of Boston upon the same subject.

It is probable, therefore, that, ultimately, the State will be required to furnish suitable accommodations for this term of the supreme court.

It has appeared to me, upon such consideration as I have been able to give this subject, that suitable rooms in the capitol may be had by transferring the executive offices of the governor and council to the rooms of the Hancock House, if it should be purchased by the State, or by appropriating this house to the use of the court, as the legislature should deem most expedient.

If it shall become necessary to provide new accommodations for the law term of the supreme court, to be the exclusive property of the State,—and the State, manifestly, should be the exclusive owner of the halls of justice appropriated to its use,—I know of no arrangement more for its interest than the one suggested. It seems to be the most appropriate use to which the Hancock House could be assigned, if the purchase contemplated by the Act referred to should be effected.

In addition to the spacious, airy and eligible accommodations for the court, and the people interested in its proceedings, it will have an immediate proximity to the State library, which has perhaps a broader foundation for an extended and perfect law library than any other collection of books in the Commonwealth presents; and I believe that by an expenditure of perhaps one thousand dollars, and a special appropriation of two or three hundred dollars to the purchase of law books in which the library is now deficient, out of the sum of twenty-three hundred dollars annually expended for its enlargement, it can be made one of the most comprehensive and perfect law libraries to be found in any country.

I have the honor to inclose a communication from the attorney-general, honorable Stephen H. Phillips, upon the condition and capacity of the library in this respect.

I have not thought it proper, however, to take any steps whatever, leading directly or indirectly to so important a result as the removal of the supreme court from its present location, without the assent and direction of the legislature. And as the Act by which the commissioners named therein were invested with a partial authority of purchase, required the unanimous concurrence of all its members, not only in the purchase but as to the uses to which it should be appropriated, I have thought it unnecessary, being unprepared to enter upon the purchase myself for the purpose to which it seemed to me best adapted, to order a meeting of the commissioners named in the Act.

Since the adjournment of the legislature, I have learned that the immediate transfer of this property will be affected by a condition embodied in the will of the late Mr. Hancock.

The provision is as follows, viz. :—"I direct that the mansion house estate in Beacon Street shall not be sold until four years after my decease, and that the sale of the same shall be advertised in one or more papers in Boston, New York, Philadelphia and Washington. I hope the estate may not be sold, but retained in the family ; but if sold, I direct that if not sold in one lot it be sold in four separate lots, and if sold in four separate lots, that the house be sold separately."

It does not appear, however, that the restriction upon the transfer of title materially affects the negotiation on the part of the State, if the purchase shall be desired. All the heirs to the estate desire its transfer to the Commonwealth. They will ask nothing in the nature of payment until a full title to the estate may be given, and are ready to give, as I am informed, such assurances of their purposes and intentions as may be required of them in the event of a contract for purchase being made between them and the Commonwealth.

If the pressure of special and very important business which engages the attention of the legislature at this session, shall preclude the possibility of a full consideration of the subject at this time, it will be expedient to refer it to the next legislature, which will have, from the experience of the supreme court, under the Act of 1859, better means of judging of the necessity of a transfer of the court from its present location, and the expediency of purchasing the Hancock House, with reference to its ultimate establishment there or at the capitol.

[To the Senate and House of Representatives, September 7.]

I have the honor to transmit for the information of the senate and house of representatives a copy of a general order from the military department of the government, providing for an encampment of the volunteer militia of the Commonwealth, in full force, at Concord, near the ancient battle ground, on the 7th, 8th and 9th days of September, instant. It will be, as I am informed, the first encampment of the entire military force of any State of the Union in time of peace. It will embrace the volunteer militia in active service from every part of the Commonwealth—every division being represented in unusually full ranks.

The camp presents to the legislature, therefore, an opportunity that has never before occurred, for examining with very great minuteness the actual condition of this arm of the public service with regard to its numerical strength, its capacity for active duty, its discipline, conduct, equipment

and organization. When so much that relates to the public defences depends upon the efficient organization of citizen soldiers, and so large drafts are annually made upon the treasury for its support, it becomes important that its actual condition and character, in all respects, should be understood by those who are charged with the duty of making appropriations of public money for its maintenance, and enacting laws for its regulation and government. Such an opportunity is now presented at Camp Massachusetts. The information it affords will not be drawn from reports of subordinate or superior officers, nor from departments, but from actual personal observation.

The camp will represent the substantial condition of the service, and the habits and character of Massachusetts citizen soldiers. Large bodies of men cannot suddenly assume habits of life unfamiliar to them, nor successfully maintain against the scrutiny of intelligent men a character for sobriety, orderly conduct, and manly discipline, which does not belong to them. The legislature will see the militia as it is, and judge if it be as it should be. The troops and the friends of the system ask nothing more than that its true character may be known to the legislators and to the people of the Commonwealth.

The review of the line will take place on the morning of Friday, the ninth day of September, instant, and I respectfully invite the senate and the house of representatives to visit the camp on that day, to inspect its condition, to participate in the review of the troops, and to accept such hospitalities as the camp affords.

A special train will be appropriated to the service of the legislature by the liberality of the Fitchburg Railway Company, and I am authorized, if the legislature shall accept the invitation to be present, to tender, at its pleasure, for purposes of escort duty, the services of the Ancient and Honorable Artillery Company.

[To the Senate, September 7.]

By an Act of the legislature approved April 2, 1859, it is provided that the avails of the sales of lands belonging to the Commonwealth in the Back Bay, shall be paid into the treasury, to be held, invested and applied, in accordance with the provisions of sundry Acts and Resolves therein named; and after the provisions of said Acts and Resolves are complied with, it is further provided that twenty *per centum* of the avails of such moiety remaining shall be paid

to such persons as should be, at that session of the legislature, incorporated as the Trustees of the Museum of Comparative Zoölogy ; such payments not to exceed, in the aggregate, the sum of one hundred thousand dollars ; and upon condition that it shall be made to appear, to the satisfaction of the governor and council, that there has been secured by subscription, in aid of such institution, in cash or bonds of unquestionable security, an amount equal to the amount then to be paid to such institution, according to the terms of the Act.

By a subsequent Act approved April 6, 1859, the governor, lieutenant-governor, president of the senate, speaker of the house of representatives, secretary of the board of education, and chief justice of the highest judicial court, *ex officio* ; and certain individuals named in the Act, are made a body politic and corporate, by the name of the Trustees of the Museum of Comparative Zoölogy ; with all the powers and privileges usually granted to such corporations.

I have thought it to be my duty to inform the legislature, that under the provisions of the Acts referred to, the corporation authorized has been duly organized, and that, including, in accordance with the terms of the Act creating the corporation, the sum of fifty thousand dollars heretofore contributed to the support and maintenance of the museum, by William Gray, the sum of one hundred and twenty-one thousand dollars has been subscribed, and will hereafter be paid in support of the museum.

I have also the honor to transmit to the senate for the use of the legislature, a copy of the by-laws of the trustees of the museum ; a copy of the articles of agreement between the trustees of the museum and the president and fellows of Harvard College ; a copy of the deed of land, on the part of the president and fellows of Harvard College to the trustees of the museum, and their successors ; and a list of the contributors to the fund subscribed for the support of the museum.

Arrangements have been made in the articles of agreement, with a view to secure to the public the freest enjoyment of and access to the museum, consistent with its use for scientific and educational purposes.

Provision is also made for lectures and instruction to classes of teachers of the public schools, to classes of pupils in the normal schools in the Commonwealth, and to such special classes of students and persons not connected with the institutions named in the Act, desirous of availing

themselves of the instruction of the curator, Professor Agassiz, and of the advantages of the museum, as may be received or invited.

Ground was broken for the erection of the buildings, on the 14th of June last. A contract has been made for the construction of a part of the proposed museum, about eighty feet by sixty, composed of brick with fire proof walls and floors, at a cost of \$41,800. The building is now in progress, and may be completed in November of the present year.

[To the House of Representatives, October 3.]

The legislature passed an Act approved the sixth day of April, 1859, entitled "An Act in relation to the Back Bay and the Public Garden in the city of Boston," for the purpose of obtaining an adjustment of an unsettled question as to the rights of the city of Boston in a strip of land lying between Arlington Street and the Public Garden.

By the provisions of the sixth section of this Act, the board of aldermen was required to submit the statute to the legal voters of the city of Boston for their acceptance or rejection. The Act was accepted on the twenty-fifth day of April, 1859, and proclamation of the fact was duly made in accordance with the terms of the Act by the secretary of the Commonwealth; a copy of which proclamation is herewith transmitted.

By the fourth section of the Act, it is provided, that, "for the purpose of determining a just equivalent to the city of Boston, for the relinquishment hereby made of any rights the said city may now have to erect buildings on the strip of land on Arlington Street, which was conveyed to the city by the said indenture of December eleventh, eighteen hundred and fifty-six, the governor of the Commonwealth and the mayor of said city shall appoint three commissioners, who shall make an award thereon; and the Commonwealth shall convey to the city of Boston such portion of the land or flats in the Back Bay, belonging to the Commonwealth, and upon such limitations and restrictions as the said commissioners shall order and direct, in said award, as such equal equivalent; and if such commissioners shall not be appointed within thirty days after this Act shall take effect, the supreme judicial court, upon the representation of either party, and upon notice to the other, shall appoint such commissioners."

Acting under this provision of law, the governor of the Commonwealth and the mayor of the city of Boston appointed three commissioners, honorable Josiah G. Abbott, of Lowell,

honorable George B. Upton, of Boston, and honorable George S. Boutwell, of Groton, to consider the subjects embraced in the section cited and to make an award thereon. The commissioners, upon a review of the whole question, and a patient hearing of the parties representing the Commonwealth and the city of Boston, made an award transferring to the city of Boston specified portions of the lands in the Back Bay as an equivalent, with other conditions named in the Act, for the surrender of its right to build upon the strip of land between Arlington Street and the Public Garden, which award was in accordance with the provisions of a subsequent Act approved on the sixth day of April, confirmed by the governor and council, and deeds of land in accordance therewith were delivered to and accepted by his honor the mayor of the city of Boston.

I have the honor to transmit herewith a copy of the award of the commissioners, a resolution passed by the council in confirmation of the same, and a copy of the deed of land delivered to the city of Boston.

No provision has yet been made by the legislature for the compensation of the commissioners who were appointed for the adjustment of this controversy. By an agreement with his honor the mayor, and by the terms of the award, it was determined that the expenses of the arbitration should be borne equally by the Commonwealth and the city government, and in pursuance of that arrangement one-half of the expenses of the award, have been paid by the city of Boston. I have the honor to transmit herewith the account of the commissioners, and respectfully request that an early provision may be made for the adjustment of the unsettled balance of their claim.

By the terms of the Act it was provided that the permanent Board of Commissioners on the Back Bay should cause to be filled, at the expense of the Commonwealth, the piece of land between Arlington Street and the Public Garden. This was done within one month from the rendering of the award, at an expense by contract, of twenty-five thousand dollars. Legislative action is required, to authorize the application to this particular purpose of a portion of the funds placed at the disposal of the commissioners, to be used for purposes of improvement.

The compensation of the special commissioners who made the award may likewise be properly charged to the same account, and accordingly the whole of these expenditures, like the others required for the prosecution of the work, will

cause no burden whatever to the ordinary revenue of the Commonwealth.

It may not be improper, in order that the liberal course pursued by the Commonwealth in regard to this great public improvement may be perfectly understood, to refer to the origin of the controversy, now fortunately adjusted.

In consideration of the surrender of certain conceded and asserted rights not greatly important to the city but materially affecting the interests and possessions of the Commonwealth, a committee of the legislature, appointed under Resolves of 1856, chapter 76, to act with the commissioners on the Back Bay, by a tripartite indenture between the Commonwealth, the city of Boston, and the Water-Power Company, dated December 11, 1856, granted to the city of Boston the strip of land lying between Arlington Street and the Public Garden, upon which the award of the commissioners lately appointed was founded.

The grant of land was not only without conditions, but expressly waived all conditions as to its use. And it was upon this fact that the city founded its unquestionable right, according to the terms of the grant, to use the land for such municipal or building purposes as should be deemed expedient.

Yet it is equally certain, that the cession was made on the part of the State with an understanding, or in the belief, that it would be used only as a part of the Public Garden, and not for city buildings or dwellings. It will be manifest that the legislature would never have granted to any party this piece of land, the key to the whole of its possessions in the Back Bay, and separating them from the Public Garden and the Common, except in the belief that it was not to be used for building purposes, but to add to the public grounds of the city.

This is shown not only by the nature of the transaction and the position of the land, but in the explicit language of the reports of the committee of the two houses of the legislature, and of the commissioners on the Back Bay.

The report of the committee of the legislature has this explanation of the grant of land made to the city:—

“The agreement provides for a new boundary at right angles to the Mill-dam, and to effect this purpose, (since the city could not alienate any portion of the Public Garden,) the State grants to the city a piece of land *to be added to the Public Garden*, of about the same size as that on which extended the restriction already mentioned as prohibiting the erection of buildings; and the city in return relieves the Commonwealth from this restriction.” [Page 9, Senate Document No. 17, 1857.]

The government of the city, standing upon the terms of the grant, claimed unrestricted possession for any purpose whatever,—as it certainly had a right to do,—and the commissioners awarded, in the consideration of its rights, an additional tract of 44,800 feet of land as a just equivalent for the surrender of the same to the Commonwealth, and its dedication to the uses as a part of the Public Garden, and the perpetual preservation of the Public Garden itself, excepting only the right of placing a city hall thereon.

The legislature in 1814, granted to the Boston and Roxbury Mill-dam Corporation, the perpetual right of flowage over the Back Bay lands. This right covered about two hundred and five acres owned by the State, and two hundred acres above the riparian line, owned by various parties. The whole of this land was subject to the right of flowage, and was flowed by the Boston Water-Power Company, which came into possession of the rights previously granted to the Mill-dam Corporation. The results of the exercise of this right of flowage to the city of Boston are thus described in a report upon the drainage of the Back Bay, in 1849:—

“In fact the Back Bay is at this hour nothing less than a great cess-pool into which is daily deposited all the filth of a large and constantly increasing population. And it is a cess-pool of the worst kind, contrived as it were for the purpose of contamination and not relief; for it is an open one, and therefore exposed continually to the action of the sun and weather, and every west wind sends its pestilential exhalations across the entire city.” “A greenish scum many yards wide stretches along the shores of the basin as far as the Western Avenue; whilst the surface of the water beyond is seen bubbling like a cauldron with the noxious gases that are exploding from the corrupting mass below.” [Pages 11 and 12, Boston City Document No. 14, 1850.]

The Commonwealth purchased of the Water-Power Company this right of flowage, by the release of one hundred and two acres of land, and thus extinguished the nuisance complained of, and obtained for itself and the riparian proprietors the right to reclaim the flats with filling of solid earth.

The Commonwealth has purchased, by surrender of its interest in certain flats north of the Mill-dam to the Mill-dam Corporation, the freedom of the Western Avenue from tolls in May, 1863, if it does not earlier occur; thus removing by its own act, the only toll now remaining upon the roads or bridges leading to or from the city. It has, by a most liberal plan of avenues and streets, surrendered one-third of its land when reclaimed by solid filling to this purpose, and by the release of other valuable interests to the Water-Power Company, secured the continuation of the same liberal plan of avenues and streets through the lands of that corporation.

It has also made liberal provision for the drainage of that part of the city, at its own cost.

It has appropriated from the revenues that may be received for sales of the lands so reclaimed, the sum of \$100,000 to the erection of the Museum of Comparative Zoölogy, which though it may ultimately become an institution of great interest and importance to the whole State, had its origin chiefly in the public interest manifested by the city, as appears from the fact that of the subscribers to the fund of nearly one hundred and twenty thousand dollars in its aid, all, with very few exceptions, were citizens or residents of Boston; and of the appropriation from the same source—the sale of lands—in support of the system of public schools, which will amount, it is believed, to a million or a million and a half dollars, at least one-tenth part will be paid for the support of the schools of the city of Boston.

In addition to these advantages, the territory itself has been annexed by legislative act to the city, adding to its taxable property whatever may be its value when completed.

There are few cities exerting such extensive influence upon the world, so circumscribed as the city of Boston. With an area of little more than three thousand acres, of which the city proper has but one thousand three hundred and sixty acres, and an increasing commerce and population, its confined limits become a subject of consideration as it regards the convenience of its people and its relation to other commercial cities and States.

Institutions of government and the habits and capacity of the people being the same, the relative importance of cities is estimated chiefly upon considerations of population and territorial extent.

The capacity of the people of different parts of the country for product and consumption must be nearly the same, and the strength of population is necessarily limited by the extent of area.

Such considerations naturally have an influence upon the domestic and foreign trade of the city of Boston. The addition of a hundred acres—nearly a thirtieth part of its present entire area—is therefore an event of consequence, and an advantage that is entitled to consideration.

When that addition consists, as in this case, of property like that reclaimed from the Back Bay, made solid by filling of the purest earth—capable of sustaining the most substantial structures, generally without other support than that of the earth itself—intersected by spacious streets, and an avenue of two hundred and forty feet in width extending in

direct line for a distance of four miles, ornamented with public walks and carriage ways, with grass plots and plantations of trees,—to be adorned hereafter, it is to be hoped, by the erection of statues and works of art, and the whole surrounded by stately mansions such as improve the most favored portions of the city,—it cannot but add to the renown of the Commonwealth and the lasting and inappreciable advantages of its capital city.

The contractors with the Commonwealth, who have undertaken to reclaim these lands by solid filling, are pursuing their work with great success, and in a manner that leaves nothing to be desired on the part of the State or its purchasers.

I am informed by the commissioners that efficacious and early arrangements will be made for the sales of land, and the completion of this most important public work; and I feel assured that neither the city of Boston nor the people of the Commonwealth will have cause to regret the adjustment of the difficulty, which for a brief period has interrupted its progress, or the liberal plan which has been adopted for the management of its landed interests and the improvement of the metropolis of New England.

[To the Senate, October 3.]

I have the honor to transmit to the honorable senate, for the consideration of the legislature, a communication, signed by S. G. Howe, R. C. Waterston, George S. Boutwell, George B. Emerson, Alpheus Crosby, E. Edmunds, and Josiah Quincy, Jr., a committee appointed at a public meeting in the city of Boston, respectfully requesting that a suitable place be assigned in the State House grounds for the erection of a bronze statue of Horace Mann, to be procured by general subscription among the people of the State. I recommend that this request be granted. Works of art, independent of associations of personal character, are of the highest public utility. They elevate the popular taste and are in themselves a source of instruction and rational pleasure. In the controversies of men who undertake by statutes or institutions of government conformable to the genius or necessities of the age in which they live, to supply the deficiencies or to correct the errors of the past, there is much of tribulation and anguish, for which the lifetime of those who suffer, offers no adequate compensation. Perhaps the thought that most encourages persistent effort in great enterprises, in addition to the hope of contributing to public welfare, is that of leaving a name worthy to be

remembered in the land's language. Monumental memorials enable us to repay with grateful and unfailing remembrance such services of great and good men, to minister to an honorable and patriotic ambition, and to stimulate every generation to a generous emulation of high thoughts and magnanimous actions. Far from prompting indiscriminate approval of historic character and historic acts, they incite constant and intelligent inquiry, and lead multitudes of men to conscientious investigation and just conclusions.

It is well for the age in which we live that the deeds of good men are held in constant public remembrance, and the State can hardly establish for its people a nobler reputation than to show, that with a spirit of their own, they cherish the fame of those whose public labors have established important public privileges.

The department of education was one to which the founders of the government gave their earliest attention. It has received the support of the ablest of every class of our citizens, and is now as it ever has been one of the most cherished institutions of the people.

Among the eminent men who have given lives of labor to its support, no single life has been more devoted in duty, more successful in labor, or of greater value to the Commonwealth, than that of the late Horace Mann.

His services in the legislature, in which he initiated many important measures, as representative of a portion of the people in the congress of the United States, his labors in the codification of the statute laws, as well as his enthusiastic and wise devotion to the cause of popular education in which he may be justly said to have sacrificed his life, have drawn to him with remarkable power the affections of the people of the Commonwealth, and constitute a character that is worthy an enduring public commemoration.

[To the House of Representatives, November 19.]

In answer to an Order of the house of representatives, bearing date the 24th of October, I have the honor to transmit such information as the records of the land department present, in answer to the following inquiries:

1. The quantity of lands owned by the Commonwealth in the State of Maine.
2. The portion in any way subject to mortgages or other conditions.
3. The facts elicited by the investigations of the committee appointed under chapter 52 of the Resolves of the present year.

From the establishment of the land office, January 1, 1785, to the year of the separation of Maine from Massachusetts, 1820, the number of acres of land sold in the territory now constituting the State of Maine, was four millions three hundred and sixty-eight thousand nine hundred and seventy, (4,368,970.)

In the same period there were grants in aid of colleges, academies, and for other public purposes, amounting, in acres, to one million seventy-four thousand nine hundred and twenty-nine, (1,074,929,) making a total alienation from 1785 to 1820, of five millions four hundred and forty-three thousand eight hundred and ninety-nine acres, (5,443,899.)

The amount received in the treasury from these sales, from 1785 to 1820, was \$896,281.67. [Report land agent, 1843, p. 8.]

From 1820 to 1851, the number of acres sold, of lands held in common with the State of Maine, was eight hundred eighty-four thousand three hundred and forty-one, (884,341.)

Of the lands held separately by Massachusetts were sold in the same period, one million five hundred and eighty-nine thousand four hundred and ninety-one acres, (1,589,491,) making a total in acres, of two millions four hundred and seventy-three thousand eight hundred and thirty-two, (2,473,832.) [Report 1851, p. 2.]

It thus appears from the records of the land department that the number of acres sold from the establishment of the land office in 1785, to 1851, deducting grants made for public uses, was six millions eight hundred and forty-two thousand eight hundred and two, (6,842,802.) The earliest reservations for public uses were 340 acres for each township. Subsequently, as early as 1790, reservations were made of four lots of 320 acres each; one for the support of the settled minister; one for the ministry; one for schools, and one reserved for future legislative appropriation, making 1,280 acres for each township. In 1832, the reservation was established at one thousand acres for each township.

Grants of land have also been made at different periods for educational purposes, for support of soldiers of the Revolution, and for settlers at Madawaska, pursuant to article fourth of the treaty of Washington.

No extensive sale of land appears to have been made in 1851 or 1852. Sales previously made were confirmed in those years by the commissioners, and the amount received

in the treasury for lands was mainly derived from this source. The amount received by the treasurer from the sale of lands from 1785 to 1820, was \$896,281.67.* The amount received for sale of lands from 1820 to 1853 was \$2,032,920.

By a contract made twelfth March, 1853, and confirmed by a deed dated September 1, 1853, a sale of 442,719 acres of land, after deducting lots reserved for public uses, was made to Clark & McCrillis, for the sum of \$260,000, and another tract of land described in the same deed, for \$12,000. Of these sums \$123,240 remained unpaid October 1, 1859. For the security of this sum a lien upon the timber cut, and the land itself is pledged by the terms of the deed.

A committee was appointed at the late session of the legislature to consider and determine, after investigation and personal examination of the land, what deduction from this sum could justly be made, without improperly sacrificing the interests of the Commonwealth. The final report of this committee was submitted to the governor and council on the 16th instant, and for the information of the house, in answer to the last inquiry embraced in the Order of the 24th of October, a copy of the same is herewith transmitted.

The report is accompanied by the recommendation that the debt now due be reduced by abatement from the sum of \$141,482.40, to the sum of \$84,055.94.

By a deed bearing date October 5, 1853, this State conveyed to the State of Maine all its remaining interest in the lands of that State, including reservations for public uses, consisting of about one million two hundred and one thousand three hundred and twenty-eight acres, for the sum of \$362,000, of which sum \$112,000 was paid in cash, and the balance in the scrip of that State. This sale closed up the land transactions of Massachusetts in the State of Maine.

A recapitulation of the facts herein presented will afford an intelligible view of the transactions of the land department.

From 1785 to 1820 the sales of land in Maine, in acres, was	4,368,970
Grants for educational and public uses, ...	1,074,929
From 1820 to 1851 sales of land held in common with	
Maine, (acres,)	881,341
Sales of land held separately, ...	1,589,491
Sale to Clark & McCrillis, 1853, ...	442,719
Sale to the State of Maine, 1853, ...	1,201,328

Total of lands sold and alienated, acres, . . . 9,562,778

* Report 1843, p. 8.

To the quantity of lands alienated must be added a quantity, equal to one thousand acres for each township, sold since 1820, which may be estimated at four hundred and twenty-six thousand acres.

From these sales of public lands payments have been made into the treasury as follows:

From 1785 to 1820, ...	\$896,281 67
From 1820 to 1851, ...	1,998,226 55
In 1851, ...	\$19,420 48
1852, ...	15,274 08
1853, ...	676,364 94
1854, ...	250 00
	711,309 50
Total receipts, ...	\$3,605,817 72

The only mortgage or lien upon lands or timber now existing, is that upon lands and timber sold to Clark & McCrillis, consisting of 443,719 acres, reservations excluded, held for the payment of the sum of \$123,240 and the sum of \$9,180, and an additional sum of \$9,062 due from the same parties, secured also by notes. From these sums now remaining unpaid, must be deducted whatever amount shall be released to the parties named, in consideration of the circumstances connected with the original sale.

For a full statement of the facts elicited by the investigations of the committee of the legislature and their conclusions thereupon, I have the honor to transmit a copy of its final report made to the governor and council, according to the provisions of the statute by which the appointment was authorized.

[To the House of Representatives, December 28.]

A Bill, entitled "An Act for Revising and Consolidating the General Statutes of the Commonwealth," has been transmitted to this department of the government for revisal and approval. It embraces the entire body of statute laws heretofore enacted by the coördinate departments of the government, agreeably to the forms prescribed by the constitution and laws of this State, with various legislative propositions, not yet ripened into laws, adopted at their present session, which must, if approved, more or less materially affect the different interests of the Commonwealth, so far as they are dependent upon or affected by changes in the laws.

The very important character of this work, as well as the unusual circumstances attending its execution, will justify at least an explanation of the views upon which I am led to

the approval or disapproval of this vast body of new and old statute legislation.

During the session of 1854, by the provisions of chapter 68 of the Resolves of that year, a Commission was appointed to report "a plan for consolidating and arranging the general statutes of this Commonwealth." An acceptable plan of consolidation having been reported, a Resolve, approved February 16, 1855, authorized the appointment of "three able and discreet persons, learned in the law, to be Commissioners for consolidating and arranging the general statutes of the Commonwealth, which may be in force and operation at the time such Commissioners may make their final report."

The Commissioners were authorized, in consolidating and arranging the statutes, to omit redundant enactments, and those without effect or influence upon existing rights; to reject superfluous words, and condense circuitous, tautological and ambiguous phraseology into as concise and comprehensive a form as should be consistent with a full and clear expression of the will of the legislature; and to indicate any mistakes, omissions, inconsistencies and imperfections, which might appear in the laws to be consolidated and arranged, and the manner in which they should be corrected, supplied, and amended.

Subsequent legislation provided that the Commission should terminate on the 31st day of December, 1858, and that the report should be submitted to the legislature of the present year.

By a Resolve approved February 23, 1859, the Report of the Commissioners was referred to a committee of the Senate and House, appointed to examine and consider, during the recess of the legislature, the Report of the Commissioners on the consolidation and arrangement of the general statutes, "with power to propose such amendments in existing laws, as such committee may deem expedient."

The powers conferred upon this committee admit of very different interpretations. It may have been the purpose of the legislature to confer the same powers exercised by the Commissioners; a power to propose such amendments as would tend to the just arrangement, consolidation, and harmony of the then established laws of the Commonwealth. Such certainly was the interpretation given to this statute by one department of the government. The revised code, from the nature of the Act, must necessarily be passed upon ultimately by each of the coördinate departments, as one statute; embracing in a single Act all the legislation

remaining in force and effect from the foundation of the Commonwealth. No embarrassment, no difficulty could arise in such course of procedure either in the legislative or executive department, because each statute thus embodied in the consolidated and revised code would have been approved at some period or other of our legislative history, by all branches of the law-making power ; and the ultimate and final approval of the code on the part of the legislature and the governor, would relate to the method, manner, and perfection of that "consolidation and arrangement of the general statutes of the Commonwealth," which is declared in every Act bearing upon this subject, from 1854 to the present time, to have been the chief object and purpose of the government.

A different and far more liberal interpretation has been given to the duties and powers of the committee, and the legislature in the exercise of its unquestionable authority, with a wisdom which it is not my province or purpose to question, has thought it expedient to make various important changes, affecting nearly all the material interests of the people, running through the entire code and body of laws, with a view not merely to consolidate, arrange and harmonize existing statutes, but looking apparently to the establishment of a perfect code of laws.

This vast body of original and proposed statutes, engrossed upon upwards of fourteen hundred pages of parchment, has been transmitted to me without an intelligible guide to direct me to the means of separating proposed from the hitherto established Acts of legislation, except by the minute comparison of separate parchment rolls with the papers from which they are engrossed, and I am required without the intervention even of that period of time allowed by the constitution for the consideration of the lightest Acts of ordinary legislation, to approve or to reject in bulk, without discrimination or qualification, without mature consideration, and almost without reading, the entire body of laws, upon which the legislature has been engaged for many months.

I have not thought it proper—it has not seemed to me to be within the province of this department—to take informal, unofficial cognizance of the legislative proceedings, or to request the transmission of its Acts, except at such times and in such manner as should be consistent with its own will and pleasure ; neither am I assured upon mature reflection, that the transmission of separate chapters of the code at the close of the session would materially relieve my embarrassment, if such course of procedure were possible

or practicable, which I am compelled to say admits of the gravest doubts. But I feel it to be my duty,—alike with reference to present legislation and to the precedent it may establish for succeeding legislatures,—to represent to the legislature, with the most unqualified and profound respect, that there has not been preserved such distinction between legislative acts heretofore approved by the various departments of the government and the people, and the new and important measures now first presented for approval, which the original plan, purpose and policy of consolidation and arrangement would seem properly to require;—nor that opportunity given for comparison, examination, consideration and approval to which a co-ordinate and equal branch of the government is entitled, or which the express letter as well as the spirit of the constitution secures to the governor of the Commonwealth, in the performance of this part of his duties.

“No Bill or Resolve of the Senate or House of Representatives shall become a law and have force as such until it shall have been laid before the governor for his revisal.”

“In order to prevent unnecessary delays, if any Bill or Resolve shall not be returned by the governor, within five days after it shall have been presented, the same shall have the force of a law.”—(Const., Chap. 1, Art. 2.)

It will not be assumed that an Act embracing an entire code of laws, established and proposed, is a Bill or Resolve in the spirit either of parliamentary law or the constitution, or that an Act embracing all the legislative measures of an ordinary session of the general court, presented to the governor for revisal and approval at its close, would be a literal compliance with the spirit or letter of that clause of the constitution to which reference has been made.

It is not my purpose, nor can I believe it to be within the scope of my official duty to dissent from the body of these amendments. I can only express my sincere and profound regret, that the legislative action had not been confined to the arrangement and consolidation of existing laws as originally contemplated, and to acknowledge my appreciation of the difficulties and even impracticability of a separate consideration and approval of the several parts of a code of laws.

There are many of these provisions to which, under ordinary circumstances, I should cheerfully assent; others which I should most reluctantly approve if separately submitted

for revisal, conformably to the provisions of the constitution. But I do not think it proper, except upon the most imperative considerations, to take any step which shall lead or tend to the defeat of the work of revision at the present session. The revision is of itself, if well performed, of the greatest public importance. It will bring together in a volume of reasonable dimensions all the public statutes that now lie scattered through many separate volumes, inaccessible to the great mass of the people.

The general approval bestowed upon the plan of revision originally reported, the high reputation of the commissioners, and the assiduous labor they have bestowed upon the work, as well as the examination which in the way of official duty I have been able to give to it, lead me to believe that it will be acceptable to the people, and greatly assist those engaged in the administration of law. My profound respect for the legislature, as for every body of men charged by the people with the high responsibilities of legislators and law-makers, confirms me in the hope that the changes now proposed and embodied in the code submitted for revisal and approval may also promote the interests of the Commonwealth. Such at least is my expectation and desire, and upon such grounds, I should give it a cordial approval, with the exception of a single subject upon which I am compelled to dissent from the action of the legislature. I refer to the change made in the basis of the militia enrollment and organization. Some years since, while connected with another department of the government, my attention was called to this subject, and during the present and past year, in the way of official duty, altogether apart from legislative considerations, upon petitions for the organization of companies, it has been necessary that I should examine it with renewed care, and it is my opinion that the legislation now proposed in the organization and enrollment of the militia of this Commonwealth, is plainly in contravention of constitutional law, and therefore not within the powers granted to the legislature.

In the controversy upon the adoption of the federal constitution in this, as in other States, very earnest debate arose upon the question, what powers were delegated to the general government and what were reserved to the States; and the constitution was finally adopted by the requisite number of States, with an understanding, that the provisions afterwards embodied in article tenth of amendments should be incorporated into the constitution itself, to wit: "The powers not delegated to the United States by the con-

stitution nor prohibited by it to the States, are reserved to the States respectively or to the people." The division of powers therefore, is perfectly clear so far as this subject is concerned. That which is not granted to the general government nor incident to the powers granted is reserved to the States unless expressly prohibited.

The power to "provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of officers and the authority of training the militia according to the discipline prescribed by congress," is one of the powers expressly conceded to the federal government in the first article, eighth section, of the constitution of the United States.

The power granted in express terms to the federal government by this section of the constitution, is that of "organizing, arming, and disciplining the militia;" that reserved to the States is the "appointment of officers and the authority of training the militia according to the discipline prescribed by congress." The power to organize includes that of determining what classes of persons shall be so organized, and this has been determined by an Act of congress approved May 8, 1792, entitled "An Act more effectually to provide for the mutual defence by establishing an uniform militia throughout the United States."

The classes of persons which by these provisions of the constitution and legislation of the United States are to be organized, armed, and disciplined, as an uniform militia throughout the United States, are, able-bodied, white, male citizens of the respective States, resident therein, who are or shall be of the age of eighteen years, and under the age of forty-five years.

It is not, in my judgment, within the power of the legislature to change this basis of enrollment, or enlarge or diminish the classes of men embraced in this organization of the militia. It is no sufficient answer to say that in changing the phraseology of the statute of the United States in the enactment of our own militia laws, we still leave public officers in the enrollment of the militia, to follow the laws of the United States, without committing the people of this State to a recognition of distinctions between men that are not acceptable. The militia is a national institution. In all that pertains to its organization, armament and discipline, our laws are but a republication of the laws of the United States, for the information and instruction of the citizens of this State; and if in this republication we misrepresent the

fact, we lead them into innumerable and remediless difficulties and constantly embarrass the administration of our own government.

The assessors are required annually, in the month of May, to make a list of persons living within their respective limits liable to enrollment, and place a certified copy thereof in the hands of the clerks of their respective towns or cities, and annually, in the month of May, to transmit returns of the militia thus enrolled to the adjutant-general. These returns, certified by the governor of the Commonwealth, are annually transmitted to the president of the United States. The militia thus enrolled is liable to be called out at any moment, in case of war, invasion, to prevent invasion, to suppress riots, or to aid in the execution of the laws of the Commonwealth. It would be a public wrong of the highest character to mislead, by statutory direction, a public officer in the discharge of these duties, and assuredly no provision ought to stand as law, unless the legislature intends that assessors and other public officers shall be bound by its terms.

Still less is it to be urged that, assuming a recent decision of the supreme court of the United States to be just, certain persons are not citizens, and, therefore, their exclusion need not be expressed or implied in our re-enactment of the militia laws. The statutes of the Commonwealth are yet free from the most distant recognition of the doctrines of that decision, and I trust may forever so remain.

For these reasons, believing that the change proposed in the basis of enrollment is palpably in contravention of constitutional law, and cannot be executed by this department of the government without an infringement of the constitution, which I am sworn to support, I have thought it an imperative duty to withhold executive approval, and I therefore return the Bill to the House in which it originated, that it may be re-considered by the legislature conformably to the provisions of the constitution.

Under other circumstances I should not hesitate in a case like the present, to act upon my own judgment; but inasmuch as a disapproval of the legislative proposition to which I have referred imposes upon me the necessity of rejecting without discrimination every statute approved by my predecessors from the foundation of the government and every amendment proposed by the present legislature, I have thought it to be my duty, not only to give to the subject the most serious consideration, but to seek direction from the

high legal authorities which the constitution and laws enable me to consult.

I requested the attorney-general therefore to prepare an opinion upon two propositions, which I have the honor to transmit to the legislature, and subsequently upon the request of the governor and council, the supreme judicial court pronounced an opinion upon the same questions, which has been transmitted to me by the honorable chief justice of that court, and which I have the honor now to lay before the two houses of the legislature. These opinions are elaborate, learned, and decided. That of the supreme court embodies one of the most luminous and learned expositions of the relations of the State and Federal governments, and of the origin, nature, and purpose of the institution of the militia of the United States and of this Commonwealth, that judicial history presents.

It is unnecessary for me to ask of the legislature a candid consideration of these able State papers. They cannot be too carefully considered by legislators or by the people. It is unnecessary for me to call the attention of the legislature, in view of the rugged paths of national life on which too obviously we are entering, to the necessity of maintaining the organization of the militia, and of perpetuating the harmony of feeling and interest of its members with the principles and institutions of the government, of which, as citizens and soldiers, they are a chief support. Nor is it necessary to enlarge upon the expediency, in every consideration of public policy, of a constant and faithful adherence to constitutional obligations. We can present no more reliable evidence of strength than the fact that we can maintain our own privileges without invading the rights of others; and for a State inflexibly determined to submit to nothing wrong, there is no safer rule of action than to ask nothing that is not right.

COMMONWEALTH OF MASSACHUSETTS.

ATTORNEY-GENERAL'S OFFICE, BOSTON, }
December 15, 1859. }

To His Excellency, Governor BANKS :

Sir,—I have received your request for an official opinion upon the following questions relating to the militia, and have carefully considered the same :

The questions are,

1. Whether the legislature of this Commonwealth can constitutionally provide for the enrolment in the militia of any persons other than those enumerated in the Act of congress, approved May 8, 1792, entitled, "An Act more effectually to provide for the mutual defence by establishing an uniform militia throughout the United States."

2. Whether the aforesaid Act of congress, as to all matters therein provided for, and except as amended by subsequent Acts, has such force in this Commonwealth, independently of, or notwithstanding, any State legislation, that all officers under the State government, both civil and military, are bound by its provisions.

I. The first question requires a consideration of the authority of this Commonwealth, and of its legislature, in the "enrollment" of the militia within its limits. To determine this, two inquiries naturally suggest themselves.

1st. What rights had this Commonwealth, as a sovereign State, over the organization of the militia before the adoption of the federal constitution?

2d. How far are those rights modified or impaired by the constitution of the United States, or the laws made in pursuance thereof?

Whatever may be the history of the militia system, it must be conceded that this Commonwealth, upon the adoption of its constitution, in 1780, asserting and maintaining by right of revolution an independent sovereignty, claimed as one of its prerogatives the full authority to control its own militia in all respects. The carefully studied provisions still to be found in the constitution, relative to the organization of the militia, and the appointment of officers, indicate the interest taken in this most important auxiliary of a free State.

Const. Mass., Part 2, Ch. II., Sect. 1, Art. 10.

This article, as well as one almost immediately preceding, (Art. 7, concerning the authority of the governor as commander-in-chief,) suggests the obvious consideration that a militia system, which had

existed under the previous forms of government, was still to be preserved, and its division into brigades, &c., to be continued, except as modified by the provisions of the constitution itself, "until the same shall be altered in pursuance of *some future law*." Incidentally, therefore, to the sovereignty of the Commonwealth, and conformably to the spirit of the constitution, existed the right to provide by law for the *organization* of the militia. This power, so far as not repugnant or contrary to the constitution, pertains to the legislature by force of the general delegation of authority contained in part second, chapter 1, section 1, article 4. There can then be no doubt that, except as to matters specially provided for by the constitution itself, the general court, by virtue of that instrument, acquired the most ample power and authority "to make, ordain and establish all manner of wholesome and reasonable laws" relative to the organization of the militia. The organization of the militia includes not merely the division of the citizens subject to military duty into brigades, regiments and military divisions; but it also includes, among other things, the establishment of the rules of military subordination, and the principle by which a selection shall be made from the body of the citizens for military duty. This selection may be governed by various considerations of military fitness or public policy. Age, health and stature are important in the former case. The question of native or foreign birth may, in a time of war, when sympathies and prejudices are easily excited, become very material in determining the policy of the government. The law-making power is therefore intrusted with very large authority. The selection of subjects for military duty is made in this Commonwealth by *enrollment*, and so frequently is that term used in the legislation of our general court and of congress, relating to the militia, that it has acquired a well-understood technical meaning. The "enrollment" of the militia is that preliminary process of preparing lists of those subject to militia duty, which lists form the basis of all future action by those intrusted with the duty of organization. To "enroll" the men is the first step towards organization.

No further suggestions are necessary to indicate that the legislature of the Commonwealth may prescribe the rules to be observed in "enrolling" the militia, unless their authority has been impaired by the constitution of the United States, or the laws of congress made in pursuance thereof.

Thus the important question of constitutional law recurs, whether in view of the existing laws of the United States and the power over the organization of the militia which is given to congress by the federal constitution, a State legislature can constitutionally provide for the *enrollment* in the militia of any persons *other* than those enumerated in the Act of congress, approved May 8, 1792. It is my opinion that a State legislature *cannot* make such a provision.

In the constitution of the United States, article 1, section 8, among the other enumerated powers of congress, it is specially set forth that congress shall have power "to provide for organizing, arming and disciplining the militia, and for governing such part of them as

may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers and the authority of training the militia, according to the discipline prescribed by congress."

If the power thus delegated to the federal congress is *exclusive*, the right of the State legislatures, in regard to prescribing who shall be enrolled, is wholly abrogated.

The State government will clearly retain all the rights of sovereignty which it had before the adoption of the federal constitution, and not thereby exclusively delegated.

Federalist, No. 32. Const. U. S., Art. 10 of the Amendments.

Is this delegation of power exclusive? In the number of the Federalist already referred to, it is suggested that the alienation of State power or sovereignty can exist only in three cases, viz.:

1. Where the constitution in *express terms* granted an exclusive authority to the Union.

2. Where it granted in one instance an authority to the Union, and in another prohibited the States from exercising the like authority.

3. Where it granted an authority to the Union, to which a similar authority in the States would be absolutely and totally contradictory and repugnant.

A similar classification is adopted by Mr. Justice STORY in *Houston v. Moore*, 5 Wheat. 49, and it is stated by Chancellor KENT, 1 Kent's Com. 387, that in the course of judicial construction, from time to time, there has been no essential variation from the contemporary exposition of the Federalist.

Under this classification, can this power be deemed exclusive? It certainly does not fall within either of the first two classes. Certainly not within the first. Neither is it included in the second. There is no prohibition to the States in regard to the exercise of a like authority. To be sure, no State can keep troops or ships of war, in time of peace, (Const. U. S., Art. 1, Sect. 10,) but in view of the powers reserved to the States in relation to the appointment of officers and the training of the militia, this prohibitory clause cannot be claimed, and never has been claimed, to apply to the militia. This power, if claimed to be exclusive, must then be ranked, if in any, in the third class enumerated in the Federalist. And such has been the decision of the court of last resort. The leading, and perhaps, the only decisive case, upon this point, is that of *Houston v. Moore*, 5 Wheat. 1. In that case Mr. Justice Washington, in delivering the opinion of the court (p. 21) says:—"It may be admitted at once, that the militia belong to the States, respectively, in which they may be enrolled, and that they are subject, both in their civil and military capacities, to the jurisdiction and laws of such State, except so far as those laws are controlled by Acts of congress constitutionally made. Congress has power to provide for organizing, arming and disciplining the militia; and it is presumable that the framers of the Constitution contemplated a full exercise of all these powers. Nevertheless, if congress had declined to exercise them,

it was competent to the State governments to provide for organizing, arming and disciplining their respective militia, in such manner as they might think proper. But congress has provided for all these subjects, in the way which that body must have supposed the best calculated to promote the general welfare, and to provide for the national defence. After this, can the State governments enter upon the same ground—provide for the same objects as they may think proper, and punish in their own way violations of the laws they have so enacted? The affirmative of this question is asserted by the defendant's counsel, who, it is understood, contend, that unless such State laws are in direct contradiction to those of the United States, they are not repugnant to the constitution of the United States.

“From this doctrine, I must, for one, be permitted to dissent. The two laws may not be in such absolute opposition to each other, as to render the one incapable of execution, without violating the injunctions of the other; and yet, the will of the one legislature may be in direct collision with that of the other. This will is to be discovered as well by what the legislature has not declared, as by what they have expressed. Congress, for example, has declared, that the punishment for disobedience of the Act of congress, shall be a certain fine; if that provided by the State legislature for the same offence be a similar fine, with the addition of imprisonment or death, the latter law would not prevent the former from being carried into execution, and may be said, therefore, not to be repugnant to it. But surely the will of congress, is, nevertheless, thwarted and opposed.

“This question does not so much involve a contest for power between the two governments, as the rights and privileges of the citizen, secured to him by the constitution of the United States, the benefit of which he may lawfully claim.”

It should, however, be suggested that in this class of cases of delegation of power, the authority of the State is not always considered lost until the similar authority has been actually exercised, and only to the extent of its exercise, by the federal government. For, in many instances, the States may legislate in the absence of congressional regulation,—the correct principle being, that whenever the terms in which the power is granted to congress, or the nature of the power requires that it should be exercised exclusively by congress, the subject is as completely taken from the State legislatures, as if they had been expressly forbidden to act upon it.

Sturgess v. Crowninshield, 4 Wheat. 193.

The power of congress, in relation to the organization of the militia, is one which becomes exclusive when exercised, and not till then.

Houston v. Moore, ut supra.

See also opinion of Story, J. Same case, p. 52.

With these explanations, the answer to the first question propounded is obvious. The power of congress having been exercised by the enactment of the statute of 1792, which so far as relates to the *enrollment* of the militia, is still in force, all State legislation upon the same subject matter is wholly nugatory and void. To provide,

by a law of this Commonwealth, that a different class of men shall be selected for militia duty from those specified by an Act of congress, constitutionally passed, in the exercise of a power distinctly granted, is a violation of the paramount law of the land. The militia, thus enrolled, are the militia who, under federal authority, may be called upon to suppress insurrection or repel invasion. They are the militia to whom the arms and munitions of war, provided by the federal government, are intrusted, conformably to the laws of the United States. They are the militia whose organization, according to a uniform system, is contemplated by the constitution. But how can that uniformity be secured, if the laws of the United States are not to be obeyed? There may be one standard for Maine and another for California. The efficiency of the system may be wholly impaired by the enrollment of too small a number or by including those of infirm age or feeble health. But illustrations need not be multiplied in so clear a case. Any State law, establishing a different standard of *enrollment* from that established by a law of congress is so far unconstitutional and void.

My attention has been called to the article of amendment to the federal constitution (Art. 2,) that "a well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed," and to article XVII. of the Bill of Rights prefixed to the constitution of this Commonwealth, which provides that "The people have a right to keep and to bear arms for the common defence; and as in time of peace armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it."

I am wholly at a loss, however, to understand how the right to bear arms is impaired by exclusion from the militia. The militia is the citizen soldiery of a nation, necessarily organized upon some principle of exemption, or even exclusion, by a process technically called *enrollment*, to be held in readiness for great emergencies, like insurrection or invasion, but not ordinarily to be required to perform active and constant military duty. The claim that all persons, entitled to bear arms, are entitled to enter this organization, may lead to the absurd conclusion, that persons of all classes, aliens as well as citizens, females as well as males, all in fact who may assert the right of self-defence, have a right to be enrolled.

The opinion now expressed, does not apply to the right of individuals peaceably to organize themselves into armed bodies, at their own expense, for military instruction, or defence against lawless violence, in regard to which I do not understand any inquiry to be addressed.

II. The second question requires, in reply, the statement of a few principles, which have become so familiar as to be considered elementary.

The constitution of the United States (Art. 6,) contains the following provision, "This constitution and the laws of the United

States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States shall be the supreme law of the land; and the judges in every State shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding." The question propounded assumes the case of a law, constitutionally enacted by congress, in the exercise of an unquestioned power, and the inquiry is, whether so much as has not been repealed or modified by subsequent Acts of the same body, has the force of law in this Commonwealth, and must be obeyed by all officers, civil and military, in the absence, or even in the conflict of State legislation. There can be but one answer to this naked question. The law of congress is the supreme and paramount law of the land. Its authority extends throughout the United States, not through the State governments, but notwithstanding all local laws and regulations. So far as State laws conform, they are nugatory and harmless; so far as they conflict, they are unconstitutional and void.

Houston v. Moore, 5 Wheat. 24.

Norris v. Boston, 4 Met. 295.

Up to this point there is no difficulty, and perhaps it is safe simply to suggest, that all officers under the State government, civil and military, are bound by its provisions. I am not aware that the Act of 1792, which is referred to, imposes directly any duty upon any State officers, not military. It contains provisions relating to the duty of the adjutants-general of the several States, and other officers in the staff and line of the militia. By force of the constitutional provision, already cited, which while it authorizes congress to provide for the organization of the militia, reserves to the States the right of the appointment of its officers, and the authority of training it, according to the discipline prescribed by congress, our militia and its officers are made directly subject to the Act of 1792.

But I am embarrassed as to its effect upon officers whose functions are purely civil, and who derive their authority from State laws. Thus recent statutes of this Commonwealth (stat. 1840, chap. 92, §§ 3, 4—stat. 1842, chap. 93, § 7,) impose upon the assessors the duty of making lists of persons liable to enrollment, and of transmitting the same through the town clerks to the adjutant-general. But assessors are not officers of the federal government, nor can the United States government require them, *as such*, to aid in the organization of the militia system. These are the opinions that seem to result necessarily from the opinion of the Supreme Court of the United States, in *Houston v. Moore*, already cited. It is the exact doctrine laid down by that court in *Prigg v. Pennsylvania*, 16 Pet., 616, where it is asserted that the States cannot be compelled to enforce the provisions of the fugitive slave law of 1793, the national government being alone bound, through its own proper departments, legislative, judicial or executive, to carry into effect all the rights and duties imposed upon it by the constitution, in respect to this subject-matter. An intimation of similar character is given by the supreme judicial court of this Commonwealth, in relation to the

effect of the United States naturalization laws, in the case of Stephens, Petr., 4 Gray, 562.

It results from these considerations that militia officers, although by one of the anomalies of the federal constitution they are elected or appointed conformably to State laws, are nevertheless officers under a great federal system, and must yield in all respects both active and passive obedience to the aforesaid Act of congress.

All State laws which impose upon any civil officers, such as assessors and town clerks, or the like, duties which are inconsistent with the law of the United States, are so far void, and of no obligation whatever. But the purely civil officers of a State cannot, as such, be compelled to take any *active* part in the administration of the militia law of the United States, unless the exact duty is imposed upon them by the Act of their own legislature, constitutionally passed, in conformity with some law of congress in the exercise of its power to organize the militia.

I therefore most respectfully submit, as the result of my investigations, that—

I. The legislature of this Commonwealth *cannot* constitutionally provide for the enrollment in the militia of any persons other than those enumerated in the Act of congress, approved May 8, 1792, entitled “An Act more effectually to provide for the national defence by establishing an uniform militia throughout the United States.”

II. The aforesaid Act of congress, as to all matters therein provided for, and except as amended by subsequent Acts, has the force of law in this Commonwealth; in the absence or even conflict of State legislation, all military officers under the State government are bound by its provisions, and must render both active and passive obedience. All officers whose functions are purely civil, must obey it as the paramount law of the land and cannot obstruct its execution; but they cannot, *without consistent State legislation*, be required to enforce it, or to lend the influence and authority of their offices in carrying it into effect.

All of which is most respectfully submitted by

Your obedient servant,

STEPHEN H. PHILLIPS, *Attorney-General.*

OPINION OF THE SUPREME JUDICIAL COURT

UPON THE

ORGANIZATION OF THE MILITIA:

Answer to Interrogatories propounded by the Governor and Council.

INTERROGATORIES.

Whether the legislature of this Commonwealth can constitutionally provide for the enrollment in the militia, of any persons other than those enumerated in the Act of congress, approved May 8, 1792, entitled, "An Act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States"?

Whether the aforesaid Act of Congress, as to all matters therein provided for, and except as amended by subsequent Acts, has such force in this Commonwealth, independently of, or notwithstanding any State legislation, that all officers under the State government, civil and military, are bound by its provisions?

OPINION.

The undersigned, justices of the supreme judicial court, having considered the above stated interrogatories, propounded to them by the governor and council, do hereby, in answer thereto, respectfully submit the following opinion:

We are first, as preliminary to any direct answer to the inquiries, to consider what the militia was, as understood in the constitution and laws, both of this Commonwealth and of the United States. It was an institution, not only theoretically known but practically adopted and carried into effect in all the colonies and provinces before the revolution, and even before the formation of a congress for any purpose. The utility and capabilities of this institution for military purposes had been put to a severe test by the events of the revolution, and were well understood before either of these constitutions was adopted.

Prior to the revolution, the establishment and control of this institution was within the jurisdiction of the respective colonial and provincial governments, because these were the only local governments acting directly upon the rights and interests of the inhabitants within their respective territorial limits. It was constituted by designating, setting apart, and putting in military array, under

suitable military officers, all the able-bodied male inhabitants of the province, with certain specified exceptions, and was held in readiness, upon certain exigencies, and in the manner provided by law, to act under military orders as a military armed force. It was the constituting of a citizen soldiery, in contradistinction to a regular or standing army. Such having been the jurisdiction of the several provincial governments, it naturally devolved upon the respective State governments, after the Declaration of Independence, and during the earlier years of the revolutionary war. During that period, all were acting under the articles of confederation, which was rather a league between the States for mutual defence, than a government acting directly upon the people of those States.

The constitution of Massachusetts was adopted and went into operation in 1780. It recognized the militia as an essential department of the constitution of its government, and provided for the enrollment of the men, the appointment of the officers, their duties and powers, with all the details to give efficiency to this cherished arm of defence, and declaring its proper subordination to the civil power. It also, in the declaration of rights, distinctly declared the right of the people to bear arms. But this constitution, recognizing the existence of the articles of confederation between the States, and the powers thereby vested in the Congress of the United States, and possibly anticipating important changes therein, reserved from the State governments all powers then vested, or which might afterwards be constitutionally vested in congress.

Several years afterwards, in 1789, the constitution of the United States having been adopted by the required number of States, including Massachusetts, went into operation, and became the law of the land. This system was founded upon an entirely different principle from that of the confederation. Instead of a league among sovereign States, it was a government formed by the people, and to the extent of the enumerated subjects, the jurisdiction of which was confided to and vested in the general government, acting directly upon the people. "We, the people," are the authors and constituents; and "in order to form a more perfect union," was the declared purpose of the constitution of a general government.

It was a bold, wise and successful attempt to place the people under two distinct governments, each sovereign and independent, within its own sphere of action, and dividing the jurisdiction between them, not by territorial limits, and not by the relation of superior and subordinate, but classifying the subjects of government, and designating those over which each has entire and independent jurisdiction. This object the constitution of the United States proposed to accomplish, by a specific enumeration of those subjects of general concern in which all have a general interest, and to the defence and protection of which the undivided force of all the States could be brought promptly and directly to bear.

Some of these were, our relations with foreign powers, war and peace, treaties, foreign commerce and commerce amongst the several States, with others specifically enumerated; leaving to the several

States their full jurisdiction over rights of person and property, and, in fact, over all other subjects of legislation not thus vested in the general government. All powers of government, therefore,—legislative, executive and judicial,—necessary to the full and entire administration of government over these enumerated subjects, and all powers necessarily incident thereto, are vested in the general government; and all other powers, expressly as well as by implication, are reserved to the States.

This brief and comprehensive view of the nature and character of the government of the United States, we think is not inappropriate to this discussion, because it follows as a necessary consequence that so far as the government of the United States has jurisdiction over any subject, and acts thereon within the scope of its authority, it must necessarily be paramount, and must render nugatory all legislation by any State, which is repugnant to, and inconsistent with it. There may, perhaps, in some few cases, be a concurrent jurisdiction, as in case of direct taxation of the same person and property; but until it shall practically extend to a case where there may be an actual interference, by seizing the same property at the same time, the exercise of the powers by the one is not, in its necessary effect, exclusive of the exercise of a like power by the other; but in such a case, they are not repugnant. That one must be so paramount, to prevent constant collision, is obvious; and accordingly the constitution expressly provides that the constitution and all laws and treaties made in pursuance of its authority, shall be the supreme law of the land.

Assuming that such was the manifest object of the people of the United States, and of the several States, respectively, in establishing the two distinct governments in each State, we proceed to the more direct consideration of the questions propounded.

The establishment of a militia was manifestly intended to be effected by arranging the able-bodied men, in each and all the States in military array, arming and placing them under suitable officers, but without forming them into a regular or standing army, to be ready, as the exigency should require, to defend and protect the rights of all, whether placed under the administration of the local or general government, to be called out by either, in the manner and for the purposes determined by the constitution and laws of either. It was one and the same militia for both purposes, under one uniform organization and discipline, and to be commanded by the same officers. Were it otherwise, were the general and the State governments to have their own militia, the result would have been that there would be, within the bosom of each State, a large embodied military force, not by its organization amenable to the laws or subject to the orders of the State government; and also a similar force, on which the general government would have no right to call for aid, to repel invasion, suppress insurrection, or execute the laws; a state of things, not only rendering each, to a great extent, inefficient and powerless, but also entirely destructive of that harmony and union, which were intended to characterize the combined action of both

governments. We find, therefore, that the functions of both are called into activity, in constituting this military force and carrying it into practical operation.

The constitution of the United States having charged the general government with the administration of the foreign relations of the whole Union, and the military defence of the whole, provides, article 1 section 8, "That congress shall have power to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions; to provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by congress."

"Organizing" obviously includes the power of determining who shall compose the body known as the militia. The general principle is, that a militia shall consist of the able-bodied male citizens. But this description is too vague and indefinite to be laid down as a practical rule; it requires a provision of positive law to ascertain the exact age, which shall be deemed neither too young nor too old to come within the description. One body of legislators might think the suitable ages would be from 18 to 45, others from 16 to 30 or 40, others from 20 to 50. Here the power is given to the general government, to fix the age precisely, and thereby to put an end to doubt and uncertainty; and the power to determine who shall compose the militia, when executed, equally determines who shall not be embraced in it, because all not selected are necessarily excluded.

The question upon the construction of this provision of the constitution is, whether this power to determine who shall compose the militia is exclusive. And we are of opinion that it is. A power when vested in the general government is not only exclusive when it is so declared in terms, or when the State is prohibited from the exercise of the like power, but also when the exercise of the same power by the State is superseded, and necessarily impracticable and impossible, after its exercise by the general government. For instance, when the general government have exercised their power to establish an uniform system of bankruptcy, that is, laws for sequestering and administering the estate of a living insolvent debtor; when one set of commissioners and assignees of such estate have taken possession of property, with power to sell and dispose of it, and distribute the proceeds, another set of officers, under another law, cannot take and dispose of the same property. The one power is necessarily repugnant to the other; if one is paramount, the other is void. We think the present case is similar. The general government having authority to determine who shall and who may not compose the militia, and having so determined, the State government has no legal authority to prescribe a different enrollment. This power was early carried into execution by the Act of congress of May, 1792, being an "Act more effectually

ally to provide for the national defence, by establishing an uniform militia throughout the United States." This Act specially directs who shall be, and by necessary implication, who may not be enrolled in the militia. This is strengthened by a provision that each State may by law exempt persons embraced in the class for enrollment, according as the peculiar form and particular organization of its separate government may require ; but there is no such provision for adding to the class to be enrolled.

We are therefore of opinion, that the legislature of this Commonwealth cannot constitutionally provide for the enrollment in the militia of any persons, other than those enumerated in the Act of congress of May, 1792, herein before cited.

We do not intend, by the foregoing opinion, to exclude the existence of a power in the State to provide by law for arming and equipping other bodies of men, for special service of keeping guard, and making defence, under special exigencies, or otherwise, in any case not coming within the prohibition of that clause in the constitution, article 1, section 10, which withholds from the State the power "to keep troops ;" but such bodies, however armed or organized, could not be deemed any part of "the militia," as contemplated and understood in the constitution and laws of Massachusetts and of the United States, and, as we understand, in the question propounded for our consideration.

Nor is this question, in our opinion, affected by article 2 of the amendments of the constitution, of the following tenor :— " A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

This, like similar provisions in our own declaration of rights, declares a great general right, leaving it for other more specific constitutional provision, or to legislation, to provide for the preservation and practical security of such right, and for influencing and governing the judgment and conscience of all legislators and magistrates, who are thus required to recognize and respect such rights.

In answer to the second question proposed, we are of opinion, that the Act of congress above cited, as to all matters therein provided for, except so far as it may have been changed by subsequent Acts, has such force in this Commonwealth, independently of and notwithstanding any State legislation, that all officers under the State government, civil and military, are bound by its provisions.

LEMUEL SHAW.
THERON METCALF.
GEORGE T. BIGELOW.
PLINY MERRICK.
EBENEZER R. HOAR.

Boston, Dec. 23, 1859.

Commonwealth of Massachusetts.

SECRETARY'S DEPARTMENT, BOSTON, }
January 1860. }

I hereby certify that the printed Acts, Resolves, Messages,
&c., contained in this volume, are true copies of the originals.

OLIVER WARNER,

Secretary of the Commonwealth.

INDEX

TO

ACTS AND RESOLVES CONTAINED IN THIS VOLUME.

A.

Academy, Wesleyan, at Wilbraham, granting aid to, out of proceeds of sales of Back Bay Lands, ...	Page 314
Accounts, Military, relating to, ...	396
Actions on judgments, concerning, ...	334
" Real, concerning, ...	237
" relating to removal of, ...	320
Adams Temple and School Fund, additional to Act incorporating Supervisors of, ...	244
Address of the Governor, ...	173, 473
" " " to the Council, ...	573
Adjutant-General, Salary of, to define, ...	127
Adjutant General's Office, Salary of Clerk in, to establish, ...	322
Administrators, Special, additional to the several Acts concerning, ...	305
" " relating to, ...	89
Adoption of Children, additional to Act providing for, ...	249
Adulterated Milk, concerning Sale of, and the Sealing of Measures, ...	364
Aged Females, Newburyport Society for relief of, to amend Act incorporating, ...	224
Aged Indigent Females, Association for the relief of, in addition to Act incorporating, ...	41
Agent and Draw-tenders of Charles River and Warren Bridges, concerning, ...	334
Agent to prosecute Claims of Massachusetts against the Federal Government, authorizing appointment of, ...	435, 469
" " the Claim of Massachusetts against the Federal Government, providing for the payment of, ...	444
Agents of Foreign Insurance Companies, Delinquent, relating to, ...	142
" " " " relating to Returns by, ...	37
" Town, Purchase and Sale of Liquors for, concerning, ...	145
Agricultural Branch Railroad, extending time for construction of, ...	227
" Societies, relating to, ...	398
" Society, Highland, to incorporate, ...	310
" " Martha's Vineyard, to incorporate, ...	235
Agriculture, State Board of, Resolve in favor, ...	158

Albany Street, Boston, authorizing the extension of, . . .	Page 230
Alien Passengers, Superintendent of, defining his Salary, . . .	96
Alimony, in relation to, ...	36
Almshouse, State, at Monson, relative to preservation of, from fire, . .	647
Almshouses, State, Inmates to receive the ministrations of Clergymen of their own religious faith, ...	161
“ “ Superintendents may contract for employment of inmates, ...	142
“ State, for the better protection of, from fire, ...	458
“ State, and Rainsford Island Hospital, appropriations for Expenses of, ...	237
Amendment to the Constitution, Resolves concerning, ...	442
American Cordage and Webbing Company, to incorporate, ...	253
“ Flax Cotton Company, to incorporate, ...	253
“ Insurance Company, to extend Charter of, ...	8
“ Linen Company, to amend the Charter of, ...	246
“ Watch Company, Name of Waltham Improvement Company changed to, ...	228
Amherst and Belchertown Railroad Company, concerning, ...	66
“ College, granting aid to, out of proceeds of sales of Back Bay Lands, ...	314
Amory, Charles, and others, Trustees, Resolve on Petition of, ...	438
Amusements, Public, in addition to Act concerning, ...	125
Ancient and Honorable Artillery Company, Resolve of thanks to, . . .	646
Andrews, John P. and George, Trustees, Resolve on petition of, . . .	649
Animals and Birds, Fighting of, relating to Exhibitions, ...	319
“ Cruelty to, to prevent, ...	272

Appropriations of the Year 1858.

Appropriation for the Emergency Fund, ...	19
Appropriations, Final, for the Hospital for Insane at Northampton, . .	104
“ for the Maintenance of Government during the year 1858, and Supplementary Act, ...	8
“ to meet certain Expenditures authorized the present year, ...	108
“ to pay certain Expenses incurred in previous years, ...	95
“ “ “ “ of the year 1857, ...	20
“ “ “ “ “ “ “ additional Act, ...	31
“ relating to certain Funds belonging to the Common- wealth, and disbursement of Income, ...	72

Appropriations of the Year 1859.

Appropriation, additional, for better preservation of State Almshouses from fire, ...	631
“ for warming and ventilating the Representatives' Hall, ...	657
“ for transportation of State Paupers, ...	247
Appropriations, certain, authorizing transfer of, for Military purposes, .	657
“ for certain expenditures and deficiencies, and for other purposes, ...	632, 643

Appropriations for compensation of the Committee on Revision of the Statutes, and other purposes, ...	Page 643
“ for compensation of the Doorkeepers, Messengers and Pages, ...	631, 643
“ for Expenses of State Almshouses and Rainsford Island Hospital, ...	237
“ further, for repair and maintenance of Charles River and Warren Bridges, ...	641
“ from the income of several Trust Funds, &c., ...	72, 354
“ for the maintenance of Government during the current year, and Acts additional and supplementary thereto, ...	257, 422
“ to meet certain Expenses authorized the present year, and supplementary Act, ...	427, 433
“ for Mileage and Compensation of the Legislature, ...	226, 630
“ to pay certain Expenses of the year 1858, and previous years, ...	297
Artillery, Ancient and Honorable, Resolve of thanks to, ...	646
Assessment and Collection of Taxes, relating to, ...	61
“ of Damages, concerning applications for Juries for, ...	397
“ of Taxes in the Town of Newbury, relating to, ...	78
Assessors, Duties of, in addition to Act concerning, ...	82
“ of the City of Lynn, relating to, ...	370
“ Returns of Corporations to, concerning, ...	396
Assignees of Insolvents, concerning, ...	105, 252
“ liability for Costs in certain Cases, concerning, ...	339
Assistant-Librarian, to increase the Salary of, ...	250
“ “ relating to salary of, ...	650
Association, Congregational Library, concerning, ...	435
“ “ “ concerning the Records and doings of, ...	454
“ East Boston Library, additional to Act incorporating, ...	292
“ Eliot Library, Name of Jamaica Plain Athenæum changed to, ...	7
“ Linden Grove Cemetery, to incorporate, ...	90
“ Massachusetts Teachers', in aid of, ...	437
“ Mishawum Literary, to incorporate, ...	79
“ New Bedford Women's Reform and Relief, to incorporate, ...	403
“ for the relief of Aged Indigent Females, in addition to Act incorporating, ...	41
“ Thurber Medical, to incorporate, ...	228
“ Traveller Newspaper, to incorporate, ...	67
Associations, Law Library, additional to Acts concerning, ...	326
“ “ “ Resolve in favor of, ...	155
“ Loan and Fund, additional to Act authorizing the business of, ...	408
Asylum, St. Vincent's Orphan, in addition to Act incorporating, ...	42
Athenæum, Jamaica Plain, to change the Name of, ...	7
Atlas Bank, to increase the Capital Stock of, ...	332
Attachments of Real Estate, relating to, ...	333

Attendance of Children at School, additional to the several Acts concerning, ...	Page 337
“ “ at School in adjoining Towns, concerning, ...	269
Attendants and Officers of the Legislature, to regulate the Compensation of, ...	4
Attorney for the Middle District, establishing the Salary of, ...	85
Attorneys for the Northern, Eastern and Southern Districts, to fix the Salaries of, ...	87
Attorneys, District, fixing Salaries of, ...	371
“ “ to proceed against Public Officers who neglect to pay over Money to County Treasurers, ...	389
Attorneys at Law, collection of Money fraudulently withheld by, relating to, ...	323
Attorney's Fee in certain Criminal Prosecutions, relating to, ...	357
Auditor to appoint a person to countersign Bank Notes, ...	389
“ concerning certain Reports to, &c., ...	388
Auditor's Annual Report, what to embrace, ...	128

B.

Back Bay, regarding Railroad facilities for filling, ...	165
Back Bay Lands, proceeds of Sales, to increase the School Fund and grant aid to certain Colleges, &c., out of, ...	314
“ “ and the Public Garden, relating to, ...	367
Bail in Criminal Cases, relating to, ...	295
Baker, Levi, Resolve in favor, ...	440
Baker's Pond and Drain Fishing Company, to incorporate, ...	52
Bakery Company, Boston Mechanical, to incorporate, ...	305
Bank, Atlas, to increase the Capital Stock of, ...	332
Bank Bills, Auditor to appoint a person to countersign, ...	389
“ “ Certificates and Notes, Blanks for Counterfeiting, to prevent the use of, ...	53
“ “ and Coin, granting aid for the suppression of Counterfeiting, ...	165
“ “ granting aid for the suppression of Counterfeiting, ...	446
“ “ to punish and remedy the wrongful detention of, ...	282
“ of Commerce, Payment of certain lost Coupons authorized, ...	155
“ Commissioners, establishing Salary of, ...	311
“ Hide and Leather, time for paying in the Capital Stock extended, ...	61
“ Howard, changing Name of Howard Banking Company, ...	267
“ of Mutual Redemption, to amend Act incorporating, ...	274
“ Natick Five Cents Savings, to incorporate, ...	331
“ North, to increase the Capital Stock of, ...	325
“ Old Colony, to extend the time to pay in the increase of Capital, ...	53
“ Pawnors', to incorporate, ...	326
“ Returns, certain additional, required, ...	86
“ “ Monthly, to amend the Form of, ...	372
“ Salem, to reduce the Capital Stock of, ...	232
Banking, in addition to Act authorizing the business of, ...	420

Banking Company, Howard, changing Name to Howard Bank,	Page 267
Banks, Savings, and Mutual Insurance Companies, concerning invest-	
ments of,	37
relating to Dividends by,	337
in South Boston, to make Monthly Returns,	139
Specie in, to increase the amount of,	54
“ “ “ “ amendatory Act,	139
Baptist Church, First, in Woburn, authorized to sell Real Estate,	223
Baptist Society, North, in Dorchester, to confirm the organization and	
proceedings of,	267
“ “ Shawmut Avenue, in Boston, to incorporate,	640
Bass, John P., Resolve for relief of,	654
Bastardy Process, relating to,	404
Battery Wharf Company, to incorporate,	90
Battery Wharf, in Gloucester, to extend,	229
Beach, Cut, in Gloucester, to protect,	294
Bedford, Town of, concerning Flowage of Lands in,	449
Belmont, Town of, to incorporate,	277
Bemis, William L., Resolve on Petition of,	161
Benson, George W., Resolve in favor of the Widow of,	655
Bequest of Isaac B. Woodbury to the State of Massachusetts, Resolve	
concerning,	439
Beverly Insurance Company, in addition to Act incorporating,	338
Billiard Rooms and Bowling Alleys, relating to,	372
Bills, Bank, Auditor to appoint a person to countersign,	389
“ “ granting aid for the suppression of Counterfeiting,	446
“ “ to punish and remedy the wrongful detention of,	282
“ “ Certificates and Notes, to prevent the use of Blanks for	
Counterfeiting,	53
Birds and Animals, Fighting of, relating to Exhibitions,	319
Black's Wharf, Heirs of John Black authorized to extend,	17
Blank Writs, relating to,	406
Blanks for Counterfeiting Bank Bills, Certificates and Notes, to prevent	
the use of,	53
Board of Agriculture, establishing Salary of Secretary,	449
“ “ relating to “ “	650
“ “ Resolve in favor of, “	158
Board of Education, Secretary of, to amend Act relating to,	50
“ of Education, to increase the Salary of Clerk of the Secretary,	250
“ of Insurance Commissioners, for the better establishment of,	152
“ of Overseers of Harvard College, additional to Act changing the	
organization of,	369
Boarding-house Keepers, relating to,	397
Boilers, Steam, to regulate the use of,	417
Bonds, Executors', relating to,	55
Books and Engravings for Lunatic Hospital at Northampton, concerning	
the purchase of,	441
Books, Reports and Laws, received by Cities and Towns from the Com-	
monwealth, for the preservation of,	81

Books, School, and changes in the same, relative to, ...	Page 271
Boston, Barre, and Gardner Railroad, concerning, ...	272
Boston, City of, additional to Act for supplying with pure water, ...	64, 390
“ “ authorized to establish a City Hospital, ...	85
“ “ authorized to lay out a Highway by extending Albany Street, ...	230
“ “ to raise the Dam at the outlet of Lake Cochituate, ...	333
“ “ Jurisdiction over certain Lands in, ceded to the United States, ...	127
“ “ Public Institutions, concerning the removal of Prisoners in, ...	85
“ Dispensary, additional to Acts relating to, ...	235
“ Harbor, Commissioners, Resolve for payment of, ...	161
“ “ concerning Criminal Jurisdiction in, ...	97
“ “ Scientific Survey of, Resolves relating to, ...	164
Boston and Maine Railroad, in relation to, ...	281
“ Mechanical Bakery Company, to incorporate, ...	305
“ and New York Central Railroad Company, concerning, ...	16
“ and Sandwich Glass Company, to confirm the reduction of the Capital Stock of, ...	250
“ and Southern Steamship Company, to incorporate, ...	362
“ Theatre, to incorporate the Proprietors of, ...	59
“ and Worcester Railroad Corporation, construction of a Road, changing location and extending time for, ...	223
Boundary Line between the Towns of Holliston and Milford, to alter, ...	312
“ “ between the Towns of Marion and Wareham, Resolves in relation to, ...	156
Bounty, Military, to Company D, Sixth Regiment, Third Brigade, Second Division Volunteer Militia, ...	456
Bowdoin Mutual Fire Insurance Company, additional to Act incorporating, ...	271
“ “ “ “ “ concerning, ...	78
Bowling Alleys and Billiard Rooms, relating to, ...	372
Bread, regulating the Manufacture and Sale of, ...	328
Bridge, Charles River and the Warren, concerning Agent and Drawtenders, ...	334
“ “ “ “ “ relating to, ...	234
“ “ “ “ “ relating to repairs upon, ...	651, 652
“ “ “ “ “ Tolls on, when to cease, ...	76
“ “ “ “ “ and the Essex, appropriations for, ...	356, 357
“ “ “ “ “ further appropriations for, ...	641
“ Essex, in addition to Act providing for the maintenance of, ...	82
“ “ relating to, ...	291
“ Malden, relating to, ...	273
Bridges, Town of Brighton authorized to pay certain persons for tending, ...	371
Broadway Railroad Company, concerning, ...	17
Brookline Hotel Company, to incorporate, ...	247

Brookline Railroad Company, concerning, ...	Page 235
Brooks, Hiram, to extend his Wharf, ...	234
Brown, David F., Resolve in favor, ...	440
Brown, Moses, Resolve in favor, ...	465
Brush Hill Turnpike Corporation, in addition to Act concerning, ...	252
Buildings, Wooden, in the City of New Bedford, for the regulation of, ...	639
Burr, Sally, a Punkapog Indian, Resolve on Petition of, ...	456
Bussey, Benjamin, Trustees under Will of, Resolve on their Petition, ...	462

C.

Cambridge, City of, concerning Drains and Sewers in, ...	300
“ “ Dams and Dikes in, Edmund T. Dana and others to construct, ...	107
“ “ Resolve in favor, ...	440
“ University, Board of Overseers, additional to Act changing the organization of, ...	369
“ and Watertown Turnpike, part of, established as a Highway, ...	317
“ “ “ “ Town of Brighton to pay certain persons for tending Draw-Bridges, ...	371
Canal, Middlesex, concerning, ...	448
“ Roxbury, relating to, ...	255
Cancelled Scrip, certain, Resolve providing for the destruction of, ...	158
Cannon at Arsenal, authorizing removal of, ...	459
Cape Ann Mutual Marine Insurance Company, to incorporate, ...	65
“ Cod, Middleborough and Taunton, and Old Colony and Fall River Railroad Corporations, concerning, ...	143
Carlisle, Town of, concerning Flowage of Lands in, ...	449
Caverly, Robert B., Resolve in favor, ...	460
Cemetery Association, Linden Grove, to incorporate, ...	90
“ Company, East Douglas Evergreen, to incorporate, ...	92
“ at Mount Auburn, Proprietors of, additional to Act incorpo- rating, ...	354
Certificates, Notes and Bank Bills, Blanks for Counterfeiting, to prevent the use of, ...	53
Certiorari, Writ of, concerning, ...	84
Change of Names, ...	193, 599
Channel known as Roxbury Canal, relating to, ...	255
Charcoal, Measurement of, additional to Act regulating, ...	412
Charitable Eye and Ear Infirmary, Massachusetts, Resolves in favor of, ...	157, 436
“ Institutions, Public, Resolves for appointment of Special Joint Committee on, ...	163
“ and Reformatory Institutions of the Commonwealth, Public, concerning, ...	330
Charles River and Warren Bridges, concerning Agent and Draw- tenders of, ...	334
“ “ “ “ “ relating to, ...	234
“ “ “ “ “ relating to Repairs upon, ...	651, 652

Charles River and Warren Bridges, Fund, appropriations from in-	
come of, ...	Page 356
“ “ “ “ “ further appropriations for repair	
and maintenance of, ...	641
“ “ “ “ “ Tolls on, when to cease, ...	76
Charlestown, City of, authorized to establish a Fire Department, ...	289
“ “ “ to regulate Sidewalks in, ...	322
Chauncy Fire and Marine Insurance Company, concerning, ...	272
“ “ “ “ “ Name of Quincy Fire	
and Marine changed to, ...	89
Chelsea Beach Railroad Company, to incorporate, ...	22
Cheshire Railroad Company, concerning, ...	265
Chicopee Manufacturing Company, authorized to change the par value	
of its shares and issue new Stock, ...	248
Chicopee, Police Court in, additional to Act establishing, ...	324
Chief Justice of the Superior Court of Suffolk County, late, Resolve in	
favor, ...	162
Children, Adoption of, additional to Act providing for, ...	249
“ Attendance of, at School, in adjoining Towns, concerning, ...	269
“ Attendance of, at School, additional to the several Acts con-	
cerning, ...	337
“ Employment of, in Manufacturing Establishments, concerning, ...	61
“ Infant, of Female Convicts, concerning the Care of, ...	41
“ Orphan and Destitute, to incorporate the Church Home for, ...	28
Chilmark, Town of, Resolve in favor, ...	160
Church, First Baptist, in Woburn, authorized to sell Real Estate, ...	228
“ Grace, in Salem, to incorporate Proprietors of, ...	266
“ Home for Orphan and Destitute Children, to incorporate, ...	28
“ Newton Street Methodist Episcopal, to change the Name of, ...	631
“ Old South, in Boston, to change the Name of, ...	269
“ of the Paternity in Boston, to incorporate Proprietors of, ...	268
“ Protestant Episcopal, concerning the Officers of, ...	86
“ St. Andrews, in Chelsea, to incorporate Proprietors of, ...	268
Cities and Towns, Books, Reports and Laws received by, for the preser-	
vation of, ...	81
“ “ “ to establish Public Libraries, to amend Act authorizing, ...	232
Civil Government of the years 1858 and 1859, ...	201, 607
Claim of Massachusetts upon the Federal Government, providing for pay-	
ment of Agent to prosecute, ...	444
Claim of Massachusetts upon the Federal Government, relating to, ...	435
Claim of State of Maine, relative to payment of, ...	422, 426
Claims of Massachusetts upon the Federal Government, appointment of	
Agent to prosecute, Resolve authorizing, ...	435, 469
“ of Operatives against Insolvent Debtors and Corporations, Pre-	
ferred, concerning, ...	87
Claims against the State, certain, to be vouched under oath, &c., ...	389
Clerk in Adjutant-General's Office, to establish Salary of, ...	322
Clerk of Committee on Revision of the Statutes, Resolve for pay of, ...	652

Clerk, Second, in the Secretary's Office, to establish Salary of, . . .	Page 296
Clerk of the Secretary of the Board of Education, to increase the Salary of, . . .	250
Clerks in the several Departments, respecting Salaries of, . . .	388
Cliftondale Railroad Company, to incorporate, . . .	306
Clubs, Farmers', relating to, . . .	362
Cochituate Lake, City of Boston to raise the Dam at outlet of, &c., . . .	64, 333
Cohasset, Jurisdiction over certain Lands in, ceded to the United States, . . .	33
Coin, Bank Bills, granting aid for the suppression of Counterfeiting, . . .	165
Cole, John M. and Lansing J., Resolve in favor of, . . .	168
Collection and Assessment of Taxes, relating to, . . .	61
Collection of Money fraudulently withheld by Attorneys at Law, relating to, . . .	323
Collectors of Taxes, concerning, . . .	325
College, Harvard, President and Fellows authorized to resign their trusts concerning Theological Education, and the maintenance of a Theological School, . . .	152
Colleges, Tufts, Williams and Amherst, granting aid to, out of proceeds of sales of Back Bay Lands, . . .	314
Commissioner, Indian, extending time for Report of, . . .	647
Commissioners appointed under Acts "to regulate the use of Railroads," concerning Compensation of, . . .	8
" Bank, establishing the Salary of, . . .	311
" on Boston Harbor, Resolve for payment of, . . .	161
" to count the Money of Banks organized under general law, . . .	420
" County, fixing Salaries of, . . .	321
" of Dukes County, to borrow money to finish the Court House at Edgartown, . . .	647
" of Essex County, to borrow money to rebuild the Court House at Lawrence, . . .	647
" Insurance, Board of, for the better establishment, . . .	152
" Insurance, concerning, . . .	461
" on the Revision of the Statutes, relating to, . . .	468
" " " " Resolve for payment of, . . .	652
Committee on Flowage of Lands, Resolve for compensation of, . . .	655
" on the Liquor Commission, Resolve for payment of expenses of, . . .	656
" on Maine Lands, Resolve for compensation of, . . .	652
" on Public Charitable Institutions, Special Joint, Resolves for the appointment of, . . .	163
" on Revision of the Statutes, . . .	625
" " " " Appropriations for compensation of, . . .	643
" " " " and its Officers, Resolve for payment of, . . .	650, 652
Common Pleas, Court of, for the County of Worcester, relating to, . . .	88
Commonwealth, Territorial Limits of, declaring, and establishing the limits of certain Counties, . . .	640

Company D, Sixth Regiment, Third Brigade, Second Division, Volunteer Militia, granting Bounty to, ...	Page 456
Complaints before Justices of the Peace and Police Courts, concerning, ...	19
Concord, Town of, concerning Flowage of Lands in, ...	449
Congregational Library Association, concerning, ...	435
“ “ “ confirming the Records and doings of, ...	454
“ Society in Leominster, First, in addition to Act incorporating, ...	257
“ “ Pine Street, authorized to sell certain Real Estate, ...	125
Congress, 35th and 36th, Massachusetts Members of, ...	200, 605
Consolidation and Arrangement of the Statutes, Resolve in relation to, ...	170, 436
Constables, for removal of, for cause, in cities, ...	642
Constitution, Amendment to, concerning, ...	442
Contracts, Written, relating to specific performance of, ...	236
Conveyances and Devises of Estates for religious purposes, relating to, ...	97
Conveyances of Lands or Flats belonging to the Commonwealth, in relation to, ...	391
Convicts, Female, Infant Children of, concerning the care, ...	41
Convicts in the State Prison, Insane, relating to, ...	415
“ “ “ “ relating to Diet, Clothing and Bedding of, ...	275
Cordage Company, Old Colony, to incorporate, ...	246
Cordage and Webbing Company, American, to incorporate, ...	253
Coroners' and Fire Inquests, Costs of, concerning, ...	25
“ “ “ relating to, ...	371
Corporations, Frauds in Officers of, in addition to an Act to punish, ...	86
“ Insolvent, concerning Preferred Claims of Operatives against, ...	87
“ Issues of Stock by, concerning, ...	141, 276
“ Returns of, to Assessors, concerning, ...	396
“ Stockholders in, to protect the Rights of, ...	106
Cotter, Hannah, Resolve on Petition of, ...	167
Council, Compensation of Members established, ...	58
“ Governor's Address to, ...	573
“ concerning Mileage of Members, ...	226
Counterfeiting, granting aid for the suppression of, ...	165, 446
“ Bank Bills, Certificates and Notes, to prevent the use of Blanks for, ...	53
Counties, limits and jurisdiction of, established, ...	640
County Commissioners, fixing Salaries of, ...	321
County Debts, to limit the contracting of, ...	398
County Taxes, Resolve granting, ...	167, 464
County Treasurers to notify District-Attorney upon neglect of public officers to pay over Money, ...	389
“ “ relating to, ...	414
Coupons, certain lost, Resolve authorizing the payment of, ...	155
Court of Common Pleas for the County of Worcester, relating to, ...	88

Court House at Edgartown, authorizing loan for finishing, . . .	Page 647
“ “ at Lawrence, authorizing loan for rebuilding, . . .	647
“ “ Jurisdiction over certain Lands in Boston ceded to the United States for, ...	127
Court of Insolvency for Middlesex and Worcester Counties, fixing the Salaries of Registers, ...	97
“ Justices', of Suffolk County, extending Jurisdiction of, . . .	338
“ Police, in Chicopee, additional to Act establishing, . . .	324
“ “ in Gloucester, to establish, ...	98
“ “ in New Bedford, in addition to the several Acts in rela- tion to, ...	80
“ “ in Pittsfield, concerning, ...	301
“ “ in Taunton, to establish, ...	62
“ Probate, in County of Nantucket, relating to, ...	320
“ “ in Dukes County, additional to Acts concerning, . . .	247
“ Superior, to establish, ...	339
“ Supreme Judicial, concerning, ...	635
“ “ “ in the County of Suffolk, concerning Officers attending on, ...	81
“ “ “ in the County of Worcester, concerning terms of, ...	629
“ “ “ and the Superior, Justices of, ...	606
“ “ “ “ “ relating to terms of, ...	629
“ “ of the United States, Resolves in relation to the Decision, in Case of Scott <i>versus</i> Sandford, ...	170
Courts, Crier of, Office abolished, ...	365
“ of Insolvency, concerning the Records of, ...	26
“ “ and of Probate, Jurisdiction of, united, ...	67
“ Police, relating to, ...	401
“ “ and Justices of the Peace, relating to, ...	34
“ “ Justices of, and of the Peace, concerning Complaints before, ...	19
“ of Probate and of Insolvency, Jurisdiction of, united, . . .	67
Crane, William S., Resolve in favor of the Widow of, ...	654
Creditors, to amend Act of 1851, providing further Remedy for, . .	26
Crier of Courts, to abolish the Office of, ...	365
Criminal Cases, relating to Bail in, ...	295
“ “ relating to Jurisdiction in, ...	632
“ “ relating to Proof in, ...	320
“ “ Returns of Precepts in, concerning, ...	399
Criminal Jurisdiction in Boston Harbor, relating to, ...	97
“ Law, to provide for the better Administration of, ...	101
Cruelty to Animals, to prevent, ...	272
Cummings, Allen, Resolve in favor of, ...	168
Cut Beach, in Gloucester, to protect, ...	294

D.

Dam at outlet of Lake Cochituate, City of Boston to raise, . . .	Page 333
Damages, Applications for Juries to Assess, concerning, . . .	397
Dana, Edmund T., and others, authorized to construct Dams and Dikes in Cambridge, ...	107
Dangerous Weapons, relating to the carrying of, ...	357
Day, Jonathan, Resolve in favor, ...	461
Debtor, Insolvent, discharge of, to amend Acts of 1856, relating to, .	40
“ “ “ concerning, ...	88
“ “ Assignee of, may be trustee, ...	31
Debtors and Corporations, Insolvent, concerning Preferred Claims of Operatives against, ...	87
“ Insolvent, concerning Assignees of, ...	105, 252
“ “ concerning investment or deposit of Money belong- ing to Estates of, ...	289
“ “ liability of Assignees for Costs in certain cases, con- cerning, ...	339
“ “ relating to sale of Property of, ...	56
“ Non-resident, to amend Act of 1851, providing further remedy for Creditors of, ...	26
Debts, County, to limit the contracting of, ...	398
Debts due the Commonwealth on account of Sales of Public Lands in Maine, to enforce payment of, ...	452
Deceased Paupers, relating to Estates of, ...	21
Decision of the Supreme Court of the United States in Case of Scott <i>versus</i> Sandford, Resolves in relation to, ...	170
Descent and Distribution of the Estates of Intestates, in addition to Act relating to, ...	26
Destitute and Orphan Children, Church Home for, to incorporate, .	28
Destruction of certain Cancelled Scrip, Resolve providing for, . .	153
Detention of Bank Bills, wrongful, to punish and remedy, . . .	282
Devises of Estates for religious purposes, relating to, ...	97
Dike across Little Harbor Meadow, in Truro, Samuel Dyer and others to build, ...	268
Dikes and Dams in Cambridge, Edmund T. Dana and others, to con- struct, ...	107
Discharge of an Insolvent Debtor, to amend Act of 1856, relating to, .	40
Discharges in Insolvency, concerning, ...	88
Discipline of Jails and Houses of Correction, concerning, . . .	58, 277
Dispensary, Boston, additional to Acts relating to, ...	235
District-Attorney for the Middle District, establishing the Salary of, .	85
District-Attorneys for the Northern, Eastern and Southern Districts, to fix the Salaries of, ...	87
“ “ fixing Salaries of, ...	371
“ “ to proceed against Public Officers who neglect to pay over Money to County Treasurers, ...	389

District of Marshpee, relating to Pickerel and Perch Fishery in,	Page 71
District System, School, to abolish,	413
Districts, School, in relation to,	107
Diversions, Public, relating to,	124
Dividends by Savings Banks, relating to,	337
Division of Water-Rights, relating to,	294
Documents, Public Series, relating to the Printing of,	231
Documents and Reports, Public, in addition to Act relating to,	34
Dogs, for the better preservation of Sheep from the ravages of,	102
Dogs, concerning,	393
Doorkeepers, Messengers, and Pages, Appropriations for compensation of,	631, 643
" " " Resolve for payment of,	652, 655
Dorchester Extension Railway, to incorporate,	239
Dorchester Fire Insurance Company, to incorporate,	17
Dorchester and Roxbury Railroad, extending the time for locating and constructing,	331
Dower, relating to,	40
Drains and Sewers in the City of Cambridge, concerning,	300
Draw-Bridges, Town of Brighton to pay certain persons for tending,	371
Draw-tenders of Charles River and Warren Bridges, concerning,	334
Dry Measure, the authorized standard for measuring Fruit, Vegetables, and Nuts,	53
Dudley Indians, Resolve in favor,	163, 441, 464
" " Resolve in favor of Issachar J. Elliot, Guardian,	446
Dudley Indians, Resolve respecting,	445
" " Resolve respecting certain appropriations for,	469
Dudley, Town of, Resolve in favor,	449
Dukes County, Court House at Edgartown, authorizing loan for finishing,	647
" " Probate Courts, additional to Acts concerning,	247
" " Register of Probate and Insolvency for, relating to Salary of,	330
Duties of Assessors, in addition to Act concerning,	82
Dyer, Samuel, and others, to build a Dike across Little Harbor Meadow, in Truro,	268

E.

East Boston Library Association, additional to Act to incorporate,	292
East Douglas Evergreen Cemetery Company, to incorporate,	92
Eastern Avenue Corporation, to revive,	412
Eastern, Northern and Southern Districts, Salaries of Attorneys, to fix,	87
Eastern Railroad Company, transfer of Franchise of the Saugus Branch Railroad Company confirmed,	18
Education, Board of, to amend Act relating to the Office of Secretary,	50
Edwards, Samuel R. and Charles H., to widen Town River, in Quincy,	233
Eighth Society Methodist Episcopal Church in Boston, concerning change of Name,	631
Ela, William H., Resolve in favor of,	165

Eldredge, Edward H., Guardian, Resolve on Petition of, . . .	Page 445
Election of School Committees, additional to Act providing for, . . .	266, 418
Election Sermon, Compensation of Preacher, established, . . .	456
Elections, concerning, ...	290
Elections of Representatives to the General Court, in addition to Act concerning, ...	7
Elections, Returns of, relating to, ...	233
Electric Telegraph Companies, and Telegraphing, additional to Act concerning, ...	417
Eliot Fire Insurance Company, in relation to, ...	233
“ Library Association, name of Jamaica Plain Athenæum changed to, . . .	7
Elliott, Issachar J., Resolve in favor, ...	446
Ellison, Almeda, Resolve in favor of, ...	168
Emergency Fund, making Appropriation for, ...	19
Employment of Children in Manufacturing Establishments, concerning, . . .	61
Encampment, State, at Concord, expenses of transportation to, Resolve for payment to certain Companies, ...	651
Encampments, Military, concerning, ...	140
Episcopal Church, Protestant, concerning the Officers of, ...	86
Equitable Safety Insurance Company, to continue Charter of, ...	32
Equity, to regulate Proceedings in, ...	401
Essex Bridge, in addition to Act providing for Maintenance of, ...	82
“ “ concerning, ...	291
“ “ Appropriations for, ...	357
Essex County, Commissioners to borrow money to rebuild Court House at Lawrence, ...	647
Estate, Real, concerning Partition of, ...	100
“ “ relating to Attachments of, ...	333
Estates, Conveyances and Devises of, for religious purposes, relating to, . . .	97
“ of Deceased Paupers, relating to, ...	21
“ of Intestates, Descent and Distribution of, in addition to Act relating to, ...	26
“ of Insolvent Debtors, concerning investment or deposit of Money belonging to, ...	289
European Wharf Company, in Boston, to incorporate, ...	26
Evergreen Cemetery Company, East Douglas, to incorporate, ...	92
Execution, Boat, Fishing Tackle and Nets of Fishermen, exempted from, ...	305
Executions, extending the time for taking out, ...	229
Executors' Bonds, relating to, ...	55
Exemption of the Homestead of a Householder from levy on Execution, additional Act, ...	51
“ of the Property of Widows and Unmarried Females from Taxation, relating to, ...	33
Exhibitions of the Fighting of Birds and Animals, relating to, ...	319
Eye and Ear Infirmary, Massachusetts Charitable, in favor of, ...	157, 436

F.

Fall River, City of, amending the Charter, ...	Page 324
Falmouth, Herring Fisheries in the Town of, to protect, ...	94
Faneuil Hall Market, in Boston, concerning, ...	369
Farmers' Clubs, relating to, ...	362
Fears, Robert, to extend his Wharf, ...	65
Fee of Attorney in certain Criminal Prosecutions, relating to, ...	357
Fees, in certain cases in Insolvency, concerning, ...	106
Fees of Witnesses before Committees, concerning appropriations for, ...	388
" " relative to paying, ...	249
Female Convicts, Infant Children of, concerning the care, ...	41
Females, Aged, Indigent, Association for relief of, in addition to Act incorporating, ...	41
" " Newburyport Society for relief of, to amend Act incorporating, ...	224
" Unmarried, and Widows, exemption from Taxation of the Property of, relating to, ...	33
Fence around Fort Washington, Resolve in aid of the erection of, ...	164
Fernald, Henry B., Resolve in favor, ...	449
Fighting of Birds and Animals, relating to Exhibitions of, ...	319
Finance, to regulate certain matters of, ...	128, 388
Finances of the Commonwealth, to establish a better system for the administration of, ...	3
Fire and Coroners' Inquests, relating to, ...	25, 371
Fire Department, City of Charlestown to establish, ...	289
Fireman and Watchmen to the State House, for the appointment of, ...	131
First Baptist Church in Woburn, authorized to sell Real Estate, ...	228
First Congregational Society in Leominster, in addition to Act incorporating, ...	257
✓ Fish, Menhaden, regulating the Seining of, in Rivers of the Commonwealth, ...	39
✓ " Pickled and Smoked, relating to a Return of, ...	275
✓ Fisheries, to amend Act relating to, ...	276
✓ " Herring, in the Town of Falmouth, to protect, ...	94
✓ " in the vicinity of Nantucket, in further addition to Act regulating;	72
✓ Fishermen, Boats, Nets and Fishing Tackle of, exempt from Execution, ...	305
✓ Fishery, Herring, in Indian Head River, relating to, ...	270
✓ " in Newbury, in addition to Act regulating, ...	246
" Pickerel and Perch, in the District of Marshpee, in relation to, ...	71
" Trout, in Marshpee River, relating to, ...	276
✓ Fishing Company, Baker's Pond and Drain, to incorporate, ...	52
Flanders, Alfred, Resolve on Petition of, ...	162
Flats or Lands belonging to the Commonwealth, relating to conveyances of, ...	391
Flats and Shores belonging to the Commonwealth, concerning, ...	469

Flax Cotton Company, American, to incorporate, ...	Page 253
Flowage of Lands in Towns of Concord, Sudbury, Wayland, Bedford, and Carlisle, concerning, ...	449
“ “ Committee on, Resolve for compensation of, ...	655
Foreclosure of Mortgages of Personal Property, to perpetuate the Evi- dence of, ...	6
Foreign Insurance Companies, Delinquent Agents of, relating to, ...	142
“ “ “ Returns by Agents of, relating to, ...	37
Fort Washington, Resolve in aid of the erection of a Fence around, ...	164
Franklin and Nantucket Counties, Registers of Probate and of Insol- vency in 1858, relating to Salaries of, ...	442, 460
Frauds in Officers of Corporations, in addition to an Act to punish, ...	86
Freight, Delivery of, to connecting Railroads, concerning, ...	366
Fruit and Vegetables, concerning the Measurement of, ...	53
Fugitives from Justice, relating to, ...	266
Fund, Emergency, making Appropriation for, ...	19
“ Western Railroad Sinking, respecting, ...	78, 131
Funds, certain Trust, making Appropriations from Income of, ...	72, 354

G.

Gale, John H., to extend Marine Railways, ...	280
Garden, Public, in Boston, and the Back Bay, relating to, ...	367
Gas Light Company, Reading and Stoneham, to incorporate, ...	243
Gay Head and Christiantown Indians, Resolve in favor of W. H. Luce, Physician, ...	446
“ Indians, certain, Resolve in favor of the Town of Chilmark, for support of, ...	160
General Statutes, relative to appending a Glossary to, ...	656
“ “ relative to publication and distribution of, ...	656, 657, 658
Geological Report, Professor Hitchcock's, Resolve relating to, ...	163
Glass Company, Boston and Sandwich, to confirm the reduction of the Capital Stock of, ...	250
Globe Fire and Marine Insurance Company, to incorporate, ...	256
Glossary to the General Statutes, relative to appending, ...	656
Gloucester Police Court in, to establish, ...	98
Goodspeed, Thomas, Henry W. Luther and others, set off with their Estates from District of Marshpee to Town of Sandwich, ...	312
Government of Prisons, relating to, ...	134
Governor's Address, ...	173, 473
“ “ to the Council, ...	573
Grace Church, in Salem, to incorporate the Proprietors of, ...	266
Grand Lodge of Masons in Massachusetts, to incorporate the Master, Wardens and Members of, ...	254
Granite Railway Company, authorized to hold Meeting for choice of Officers, ...	150
Groton Junction Hotel Company, to incorporate, ...	313
Guardian to the Dudley Indians, Resolve respecting, ...	445

Guardians and Wards, concerning, ...	Page 87
Guns, at State Arsenal, certain, authorizing the removal of, ...	459

H.

Habeas Corpus, relating to Writ of, ...	641
Hadley Falls, Proprietors of, to incorporate, ...	60
Hall, Franklin, Resolve on Petition of, ...	466
Hampshire and Hampden Railroad Company, concerning, ...	406
Hancock House, relating to, ...	328
Harbor of Boston, Commissioners on, Resolve for payment of, . . .	161
“ “ concerning Criminal Jurisdiction in, ...	97
“ “ Scientific Survey of, Resolves in relation to, ...	164
Harlow, Oliver, Andrew, Thomas C., and others, set off with their Estates from the District of Marshpee to Town of Sandwich, . . .	312
Harris's Report on Insects of New England, Resolves for reprinting, .	466
Harris, Samuel L., Resolve in favor of, ...	444
Harvard College, Board of Overseers, additional to Act changing organ- ization of, ...	369
Harvard College, President and Fellows authorized to resign their trusts concerning Theological Education, and the Maintenance of a Theo- logical School, ...	152
Hassanamisco Indians, Resolve in favor of, ...	167, 464
Haynes, Gustavus E. and William H. Oakes, Resolve in favor, . . .	439
Herring Fishery in Indian Head River, relating to, ...	270
“ “ in the Town of Falmouth, to protect, ...	94
Hide and Leather Bank, in Boston, time for paying in Capital Stock extended, ...	65
Highland Agricultural Society, to incorporate, ...	310
Highway, City of Boston to lay out, by extending Albany Street, . .	230
“ part of Cambridge and Watertown Turnpike established as, . .	317
Highways, relating to Damages from alterations in, ...	251
“ Surveys made in laying out, providing for Registration of, . .	296
Hinckley, Daniel B., Resolve in favor of, ...	446
Hinckley, Thomas, authorized to build a Wharf in Falmouth, . . .	229
Hitchcock's Geological Report, Resolve in relation to, ...	163
Hodges, Horace I., Resolve in favor of, ...	166
Holliston and Milford, Boundary Line between, to alter, ...	312
Holyoke Water-Power Company, to incorporate, ...	225
Home Mutual Fire Insurance Company, to incorporate, ...	271
Home for Orphan and Destitute Children, Church, to incorporate, . .	28
Home, Washingtonian, for Inebriates, to incorporate, ...	292
“ “ “ Resolve in favor of, ...	451, 468
Homestead of a Householder, in addition to Act to exempt from levy on execution, ...	51
Hoosac Tunnel, Loan of State Credit to construct, additional to Act authorizing, ...	283
Horse Railroad Company, Broadway, concerning, ...	17

Horse Railroad Company, Brookline, concerning, . . .	Page 235
“ “ “ Chelsea Beach, to incorporate, . . .	22
“ “ “ Cliftondale, to incorporate, . . .	306
“ “ “ Dorchester Extension, to incorporate, . . .	239
“ “ “ Dorchester and Roxbury, extending time for locating and constructing road, . . .	331
“ “ “ Lynn and Boston, to incorporate, . . .	358
“ “ “ Medford and Charlestown, concerning, . . .	407
“ “ “ Metropolitan, concerning, . . .	226
“ “ “ Middlesex, concerning, . . .	363
“ “ “ Suffolk, extending time for payment of Cap- ital Stock, . . .	224
“ “ “ West Roxbury, in addition to Act incorpo- rating, . . .	28
Horse and Steam Railroad Crossings, relative to, . . .	293
Hospital, City, authorizing the City of Boston to establish, . . .	85
“ for Insane at Northampton, making final Appropriations for, . . .	104
“ Massachusetts General, and certain persons, authorized to fill up Flats and build a Sea-wall, . . .	311
“ at Rainsford Island, Repeal of Act authorizing sentence of certain persons to, . . .	294
“ “ “ Resolve concerning, . . .	162
“ “ “ respecting Accounts of, . . .	388
“ “ “ and State Almshouses, Appropriations for expenses of, . . .	237
“ State Lunatic, at Northampton, in aid of, . . .	450
“ “ “ “ concerning the purchase of Books and Engravings for, . . .	441
Hospitals, Commitment of Lunatics to, concerning, . . .	51
“ State Lunatic, relating to, . . .	16, 277
“ “ “ relating to persons committed to, not having a known settlement in the State, . . .	133
Hotel Company, Brookline, to incorporate, . . .	247
“ “ Groton Junction, to incorporate, . . .	313
House in Hancock Street, heretofore occupied by the Sergeant-at-Arms, providing for the sale of, . . .	467, 468
“ “ “ Resolve for payment of certain expenses of sale of, . . .	646
House of Representatives, Reporters' Seats in, relating to, . . .	458
Householder, Homestead of, in addition to Act exempting from levy on execution, . . .	51
Houses of Correction, providing for removal of Officers of, using Intoxi- cating Liquors, . . .	134
“ “ and Jails, concerning the Discipline of, . . .	58
“ “ “ Discipline of, to amend Act concerning, . . .	277
“ “ “ relating to the control and management of, . . .	410
“ “ “ relating to returns from, . . .	301

Howard Banking Company, changing Name to Howard Bank, .	Page 267
Howland, Ellis, Thomas T., Solomon, and others, set off with their Estates from the District of Marshpee to Town of Sandwich, .	312

I.

Idiotic and Feeble-minded Youth, Massachusetts School for, relative to completing a building for, .	447
“ “ “ Massachusetts School for, Resolve in aid of, ...	157, 440
Income of certain Funds belonging to the Commonwealth, relating to disbursement of, ...	72, 354
India Fire and Marine Insurance Company, to incorporate, . . .	142
Indian Commissioner, extending time for Report of, ...	647
Indian Head River, relating to Herring Fishery in, ...	270
“ Orchard Mills, to incorporate, ...	223
“ Schools, Appropriations for support of, ...	355
Indians, Chappequiddic, Resolve in favor of Guardian, for board and burial expenses of Margaret Peters, ...	162
“ of the Commonwealth, concerning, ...	419
“ Dudley, Resolve in favor, ...	163, 441, 464
“ “ Resolve in favor of Issachar J. Elliott, Guardian, ...	446
“ “ Resolve respecting Guardian of, ...	445
“ “ Troy and Marshpee, respecting certain appropriations for, ...	469
“ Gay Head, certain, Resolve in favor of the Town of Chilmark for support of, ...	160
“ Gay Head and Christiantown, Resolve in favor of W. H. Luce, Physician, ...	446
“ Hassanamisco, Resolve in favor, ...	167, 464
“ Marshpee, relating to School Books for, ...	441
“ Marshpee, Resolve in favor, ...	458
“ Punkapog, Resolve in favor of Guardian, ...	454, 456
Industrial School for Girls, State, additional to Act establishing, ...	371
“ “ “ “ concerning, ...	84
“ “ “ “ concerning erection of an additional building, ...	441
“ “ “ “ Resolve in relation to, ...	162
“ “ “ “ and the State Reform School, Resolve in favor of deserving pupils, ...	456
Infant Children of Female Convicts, concerning the care of, ...	41
Infirmary, Massachusetts Charitable Eye and Ear, Resolve in favor of, ...	157
Infringement of Trade Marks, to prevent, ...	400
Inquests, Coroners' and Fire, relating to, ...	25, 371
Insane Convicts in the State Prison, in relation to, ...	415
Insects of New England, Harris's Report, Resolves for reprinting, ...	466
Insolvency, concerning discharges in, ...	88
“ concerning Fees in certain cases, ...	106
“ Courts for Middlesex and Worcester Counties, fixing the Salaries of Registers of, ...	97

Insolvency Courts, concerning the Records of, ...	Page 26
“ and Probate, changing Jurisdiction in matters of, ...	67
“ and Probate Registers for Nantucket and Franklin Counties, in 1858, relating to Salaries of, ...	442, 460
Insolvent Debtors, Assignees of, in relation to, ...	105, 252
“ “ Assignees of, may be trustees, ...	31
“ “ discharge of, to amend Act of 1856, relating to, . . .	40
“ “ “ concerning, ...	88
“ Debtors and Corporations, concerning Preferred Claims of Operatives against, ...	87
“ “ relating to sale of Property of, ...	56
“ “ liability of Assignees for Costs in certain Cases, con- cerning, ...	339
“ “ Estates of, concerning investment or deposit of Money belonging to, ...	289
Inspectors and Warden of State Prison, relating to Reports of, . .	316
Institute, Roxbury Mechanics', to incorporate, ...	234
“ Rumford, in Waltham, to incorporate, ...	38
Institution for Savings, Lowell, relating to, ...	233
“ “ in Newburyport and its Vicinity, relating to, ...	16
“ “ Warren, to hold additional Real Estate, ...	339
“ “ Worcester County, fixing the time of Annual Meeting of, ...	304
Institutions, Public Charitable and Reformatory, of the Commonwealth, concerning, ...	330
“ Public Charitable, Resolves for appointment of a Special Joint Committee on, ...	163
“ “ of the City of Boston, concerning the removal of Prisoners in, ...	85
Instruction, Branches of, to be taught in the Public Schools, concerning,	6
Insurance Commissioners, Board of, for the better establishment, .	152
“ “ concerning, ...	461
“ Companies, to amend Act of 1856, concerning, ...	124
“ “ concerning, ...	310
“ “ Foreign, Delinquent Agents of, relating to, ...	142
“ “ “ Returns by Agents of, relating to, ...	37
“ “ Mutual, and Savings Banks, concerning Invest- ments of, ...	37
“ Company, American, to extend the Charter of, ...	8
“ “ Beverly, in addition to Act incorporating, ...	338
“ “ Bowdoin Mutual Fire, concerning, ...	78
“ “ “ “ additional to Act incorpo- rating, ...	271
“ “ Cape Ann Mutual Marine, to incorporate, ...	65
“ “ Chauncy Fire and Marine, concerning, ...	272
“ “ “ “ Name of Quincy Fire and Marine changed to, ...	89
“ “ Dorchester Fire, to incorporate, ...	17

Insurance Company, Eliot Fire, relating to, ...	Page 233
“ “ Equitable Safety, to continue the Charter of, ...	32
“ “ Globe Fire and Marine, to incorporate, ...	256
“ “ Home Mutual Fire, to incorporate, ...	271
“ “ India Fire and Marine, to incorporate, ...	142
“ “ Lynn Mutual Fire, concerning, ...	21
“ “ Middlesex Mutual Fire, concerning, ...	77
“ “ New England Mutual Marine, to continue the Charter of, ...	56
“ “ Northampton Fire, to incorporate, ...	314
“ “ Oriental Fire and Marine, to incorporate, ...	239
“ “ Prescott Fire and Marine, Name of Chauncy Fire and Marine, changed to, ...	273
“ “ Quincy Fire and Marine, to change Name of, to Chauncy Fire and Marine, ...	89
“ “ Rollstone, to incorporate, ...	313
“ “ South Danvers Mutual, concerning, ...	25
“ “ Springfield Fire and Marine, authorized to in- crease its Investment in Real Estate, ...	6
“ “ Springfield Fire and Marine, to increase the Capi- tal Stock of, ...	227
“ “ Suffolk Fire, to incorporate, ...	242
“ “ Washington, to increase the Capital Stock of, ...	270
“ “ Webster, to incorporate, ...	245
“ “ Winthrop Mutual Fire, to incorporate, ...	79
Interest on temporary Loans to Commonwealth, to be paid semi- annually, ...	131
Intestates, Estates of, Descent and Distribution, in addition to Act relating to, ...	26
Investments of Savings Banks and Mutual Insurance Companies, con- cerning, ...	37
Issues of Stock by Corporations, concerning, ...	141

J.

Jails and Houses of Correction, Control and management of, relating to, ...	410
“ “ “ Discipline of, concerning, ...	58
“ “ “ “ to amend Act concerning, ...	277
“ relating to Returns from, ...	301
“ in Middlesex County, concerning, ...	28
“ removal of Officers of, using Intoxicating Liquors, providing for, ...	134
Jamaica Plain Athenæum, to change the Name of, ...	7
Jones, Edwin M., Ezra S., Ebenezer C., and others, set off with their Estates, from the District of Marshpee to Town of Sandwich, ...	312
Judges of Probate and Insolvency, in relation to, ...	280
Judgments, concerning Actions on, ...	334
Juries, concerning applications for, to assess Damages, ...	397
Jurisdiction over certain Lands in Boston ceded to the United States for a Court House, ...	127

Jurisdiction over certain Lands in Cohasset, ceded to the United States,	
for a Light-keeper's House, &c., ...	Page 33
" " " on Point of Rocks in Westport, ceded to	
the United States, ...	39
" Criminal, in Boston Harbor, relating to, ...	97
" in Criminal Cases, relating to, ...	632
" and limits of certain Counties established, ...	640
" in matters of Probate and of Insolvency, to change, ...	67
Jury, Trial by, before Justices of the Peace, in certain Cases, to amend	
Act providing for, ...	55
Justices' Court of Suffolk County, extending Jurisdiction of, ...	338
Justices of the Peace, to try Criminal Cases, Governor to designate and	
commission, ...	101
" " commissioned to try Criminal Cases, designating	
Title of, ...	338
" " and Police Courts, concerning Complaints before, ...	19
" " " " relating to, ...	34
" " Returns by, to amend Act of 1852, concerning, ...	126
" " Trial by Jury before, in certain Cases, to amend	
Act providing for, ...	55
" Police, relating to Returns of, ...	357

K.

Kansas, Resolves relative to the Admission of, ...	168
Kelp and other Sea-weed, defining the right to take, between high and	
low-water mark, ...	409
Kettell, John B., and others, authorized to fill up Flats and build a Sea-	
wall, ...	311

L.

Lake Cochituate, City of Boston authorized to raise the Dam at the out-	
let, &c., ...	64, 333
Land Office, to abolish, ...	63
" to revive, ...	270
Lands in Boston, certain, Jurisdiction over, ceded to the United States, ...	127
" in Cohasset, certain, Jurisdiction over, ceded to the United States, ...	33
" or Flats belonging to the Commonwealth, relating to conveyances	
of, ...	391
" Flowage of, in Concord, Sudbury, Wayland, Bedford and Car-	
lisle, concerning, ...	449
" Flowage of, Resolve for payment of Committee on, ...	655
" on Point of Rocks in Westport, certain, Jurisdiction over, ceded	
to the United States, ...	39
Lands, Public, in Maine, to enforce payment of Debts due the State on	
account of Sales of, ...	452
" " " repealing in part Resolve chapter 52, 1859, con-	
cerning, ...	655

Lands, Public, in Maine, Resolve for compensation of Committee on, . . .	Page 652
Law, Criminal, to provide for the better Administration of, . . .	101
“ Library Associations, additional to Acts relating to, . . .	326
“ “ “ Resolve in favor of, . . .	155
Laws, Books and Reports received by Cities and Towns from the Commonwealth, for the preservation of, . . .	81
“ Special, providing for the publication of, . . .	463
“ Statute, concerning the Revision of, . . .	436
Lawrence, James, and others, Resolve on Petition of, . . .	156
Legislature, Compensation of Members, Officers and Attendants of, to regulate, . . .	4, 650
“ Compensation and Mileage of Members, Appropriations for, . . .	226, 630
“ Elections of Representatives, in addition to Act concerning, . . .	7
“ Orders of either branch not to authorize expenditures of more than \$100 unless appropriation be made, . . .	130
“ Travel of Members, concerning, . . .	654
Liberties and Rights of the People of the Commonwealth, to amend Act to protect, . . .	151
Librarian, Assistant, to increase the Salary of, . . .	250
“ “ relating to salary of, . . .	650
Libraries, Public, authorizing Cities and Towns to establish, amendatory Act, . . .	232
Library Association, Congregational, concerning, . . .	435
“ “ “ confirming the Records and doings of, . . .	454
“ “ East Boston, additional to Act incorporating, . . .	292
“ “ Eliot, Name of the Jamaica Plain Athenæum changed to, . . .	7
“ Associations, Law, Resolve in favor of, . . .	155
“ “ “ additional to Acts relating to, . . .	326
“ of the State Prison, in relation to, . . .	438
“ of the State, Resolves relating to, . . .	155, 653
Liens of Mechanics and others, to amend chap. 431 of Acts of 1855, relating to, . . .	40
Lieutenant-Governor and Members of the Executive Council, to establish the Compensation of, . . .	58
Limited Partnerships, relating to, . . .	106
Linden Grove Cemetery Association, to incorporate, . . .	90
Linen Company, American, to amend the Charter of, . . .	246
Liquor Commission, Committee on, Resolve for payment of expenses of, . . .	656
Liquors, certain, Darius A. Martin authorized to deliver to Agent, &c., . . .	161
“ concerning Purchase and Sale of, for Town Agents, . . .	145
“ Manufacture and Sale of, relating to Attorney's Fee in prosecutions under Act of 1855, . . .	357
Literary Association, Mishawum, to incorporate, . . .	79
Little Harbor Meadow, in Truro, Samuel Dyer and others to build a Dike across, . . .	268
Loan and Fund Associations, additional to Act authorizing the business of, . . .	408

Loans to Commonwealth, temporary, Interest to be paid semi-annually,	Page 131
Lost Coupons, certain, Resolve authorizing payment of,	155
Lowell Institution for Savings, relating to,	233
Luce, Francis N., Resolve in favor,	462
" W. H., Resolve in favor,	165, 446
Lumber District, authorizing the establishment of, and appointment of a Surveyor-General, and Act in addition thereto,	392, 629
" Ornamental Wood and Ship Timber, concerning Survey of,	135
Lunatic Hospital at Northampton, State, in aid of,	450
" " " " concerning purchase of Books and Engravings for,	441
" Hospitals, State, concerning,	16, 277
" " " relating to persons committed to, not having a known settlement in the State,	133
Lunatics, concerning Commitment of, to Hospitals,	51
Lynn and Boston Railroad Company, to incorporate,	358
" City of, additional to Act establishing,	370
Lynn Mutual Fire Insurance Company, concerning,	21

M.

Maine, Claim of, relating to the payment,	422, 426
" Lands, Committee on, Resolve for compensation of,	652
" Sales of Public Lands in, Resolves to enforce payment of debts due the State on account of, and partial repeal of the same,	452, 655
Malden Bridge made free, &c.,	273
Mann, Horace, relating to Statue of,	649
Manufacturing Company, Chicopee, authorized to change the par value of its shares, and issue new,	248
" " Pemberton, to incorporate,	38
" Establishments, employment of Children in, concerning,	61
Map, State, concerning,	451
Marchant, Barnard C., Resolve in favor of,	162
Marine Railways of D. O. Parkhurst and John H. Gale, to extend,	280
Mariners and Ship-owners, to protect from Imposition, additional Act,	401
Marion and Wareham, Resolves in relation to Town Lines between,	156, 238
Market, Faneuil Hall, concerning,	359
Marlborough Branch Railroad, concerning,	134
Marshpee, District of, certain persons set off from, to Town of Sandwich,	312
" " Resolve in favor,	469
" " relating to Pickerel and Perch Fishery in,	71
" Indians, relating to School Books for,	441
" " Resolve in favor,	163, 458
" " respecting certain appropriations for,	469
" River, Trout Fishery in, relating to,	276
Martha's Vineyard, Agricultural Society, to incorporate,	235
Martin, Darius A., Resolves on Petition of,	161
Masons, Grand Lodge of, to incorporate,	254

Massachusetts Charitable Eye and Ear Infirmary, in aid of, . . .	Page 157, 436
Massachusetts Claim upon the Federal Government, relating to, . . .	435
“ “ upon the Federal Government, providing for the payment of the Prosecuting Agent, . . .	444
“ Claims, authorizing appointment of Agent to prosecute, . . .	435, 469
“ General Hospital, and others, to fill up Flats and build a Sea-wall, . . .	311
“ Medical Society, in relation to, . . .	267
“ and Rhode Island, concerning the adoption of a Con- ventional Line between, . . .	459
“ School for Idiotic and Feeble-minded Youth, for com- pleting a building for, . . .	447
“ School for Idiotic and Feeble-minded Youth, Resolves in favor, . . .	157, 440
“ Teachers' Association, in aid of, . . .	437
“ Universalist Convention, to incorporate, . . .	251
Master, Wardens and Members of the Grand Lodge of Masons in Mas- sachusetts, to incorporate, . . .	254
Mattoon, Charles, Resolve on Petition of, . . .	448
McGee, James, Executive Warrant in the case of, Resolve for paying the expense of serving, . . .	463
McGrath, John, Resolves in favor of, . . .	157, 447
Measurement of Charcoal, additional to Act regulating, . . .	412
“ of Fruit and Vegetables, concerning, . . .	53
Measures used in the Sale of Milk, to provide for sealing, . . .	364
Mechanical Bakery Company, Boston, to incorporate, . . .	305
Mechanics' Institute, Roxbury, to incorporate, . . .	234
Mechanics, Liens of, to amend chapter 431 of Acts of 1855, relating to, . . .	40
Medford and Charlestown Railroad Company, concerning, . . .	407
Medical Association, Thurber, to incorporate, . . .	228
“ Society, Massachusetts, in relation to, . . .	267
Meeting-House, Union, in Worcester, legalizing proceedings and Records of the Proprietors, . . .	297
Menhaden, regulating the Seining of, in the Rivers of the Common- wealth, . . .	39
Messages, Special, . . .	185, 559, 659
Messenger in the Secretary's Office, establishing Salary of, . . .	422
Messengers, Doorkeepers and Pages, appropriations for compensation of, . . .	631, 643
“ “ “ Resolve for payment of, . . .	652, 655
Methodist Episcopal Church, Newton Street, to change the name to Trus- tees Eighth Society, . . .	631
Metropolitan Railroad Company, concerning, . . .	226
Middle District, Salary of District-Attorney established, . . .	85
Middleborough and Taunton Railroad Company, the Old Colony and Fall River, and the Cape Cod, concerning, . . .	143
Middlesex Canal, concerning, . . .	448
“ Company, concerning, . . .	281
“ County, Court of Insolvency for, fixing the Salary of Register, . . .	97

Middlesex County, Jails in, concerning, ...	Page 28
“ Mutual Fire Insurance Company, concerning, ...	77
“ Railroad Company, concerning, ...	363
Midland Railroad Company, to incorporate, ...	42
“ “ extending time for construction of a portion of, ...	231
Mileage and Compensation of Members of the Legislature, Appropriations for, ...	226, 630
“ of Members of the Council, concerning, ...	226
“ of Public Officers, concerning, ...	389
Milford and Holliston, altering Boundary Line between, ...	312
“ and Woonsocket Railroad, extending the time for locating and constructing, &c., ...	250
Military Accounts, relating to, ...	396
“ Bounties, authorizing transfer of certain appropriations to account of, ...	657
“ Bounty to Company D, Sixth Regiment, Third Brigade, Second Division, Volunteer Militia, ...	456
“ Companies, certain, Resolve for payment of expenses of transportation to State Encampment, ...	651
“ Stores, certain, relative to the surrender to the United States, ...	459
Militia, concerning, ...	140
Milk, Adulterated, concerning Sale of, and the Sealing of Measures, ...	364
Millbury and Southbridge Railroad Company, concerning, ...	18
Mills, Indian Orchard, to incorporate, ...	223
“ Pacific, to increase the Capital Stock of, ...	81
“ Ward, to incorporate, ...	91
“ Washington, to incorporate, ...	89
Minors, Taxation of, concerning, ...	416
Mishawum Literary Association, to incorporate, ...	79
Money belonging to Estates of Insolvent Debtors, concerning investment or deposit of, ...	289
“ fraudulently withheld by Attorneys at Law, relating to collection of, ...	323
“ Treasurer to borrow, in anticipation of the Revenue, ...	159, 435
Moneys due from the United States, Treasurer to receive, ...	238, 319
Monthly Bank Returns, Form of, amended, ...	372
Moral Reform Society, New England, Resolve in aid of, ...	467
Mortgages of Personal Property, concerning, ...	409
“ “ “ Evidence of Foreclosure, to perpetuate, ...	6
Mount Auburn Cemetery, additional to Act incorporating Proprietors, ...	354
Murder, relating to the Crime of, ...	126
Museum of Comparative Zoology, to incorporate the Trustees of, ...	365
“ “ “ granting aid to, out of Proceeds of Sales of Back Bay Lands, ...	314
“ of Natural History, Warren, to incorporate, ...	22
Mutual Fire Insurance Companies, to amend Act of 1856, concerning, ...	124
“ “ “ Company, Lynn, concerning, ...	21
“ “ “ “ Middlesex, concerning, ...	77

Mutual Fire Insurance Company, South Danvers, concerning, . . .	Page 25
“ “ “ “ Winthrop, to incorporate, . . .	79
“ Insurance Companies and Savings Banks, concerning Investments of, . . .	37
“ Insurance Company, Bowdoin, concerning, . . .	78
“ Marine Insurance Company, Cape Ann, to incorporate, . . .	65
“ “ “ “ New England, to continue the Charter of, . . .	56
“ Redemption, Bank of, to amend Act incorporating, . . .	274
Mystic River Corporation, additional to Act relating to, . . .	230
“ “ Railroad, to reduce the Capital Stock of, and extend the time to locate and construct, . . .	224

N.

Names, Change of, . . .	193, 599
Nantucket, County of, relating to Probate Court in, . . .	320
“ Fisheries in vicinity of, in further addition to Act regulating, . . .	72
Nantucket and Franklin Counties, Registers of Probate and of Insolvency in 1858, relating to Salaries of, . . .	442, 460
Natick Five Cents Savings Bank, to incorporate, . . .	331
Natural History, Warren Museum of, to incorporate, . . .	22
Naturalization, to amend chap. 47 of the Acts of 1856, respecting, . . .	33
Nautical Branch of the State Reform School, establishing, . . .	636
“ “ “ “ authorizing purchase of vessel for, . . .	648
“ “ “ “ relating to, . . .	637, 650
Nelson, Albert H., late Chief Justice of the Superior Court, Resolve in favor of, . . .	162
New Bedford, Police Court of, in addition to the several Acts relating to, . . .	80
“ “ Women's Reform and Relief Association, to incorporate, . . .	405
“ “ Wooden Buildings in, for the regulation of, . . .	639
New England Moral Reform Society, Resolve in aid of, . . .	467
New England Mutual Marine Insurance Company, to continue the Charter of, . . .	56
“ Pipe Works, to incorporate, . . .	65
New North Religious Society, Resolve on Petition of, . . .	156
New Plymouth Records, Resolves in relation to, . . .	168
“ “ “ “ Resolves relative to the Distribution of, . . .	159
New Salem, Town of, Treasurer to furnish, with standard Weights, Measures and Balances, . . .	463
New York and Boston Railroad, extending time for locating and constructing, . . .	18, 244
New York and Boston Railroad, Milford and Woonsocket Railroad Company authorized to lease, . . .	250
Newbury, Assessment of Taxes in the Town of, relating to, . . .	78
“ Fishery in, additional to Act regulating, . . .	246

Newburyport, City of, to amend Act establishing, ...	Page 132
“ Institution for Savings in, and its Vicinity, relating to, . .	16
“ Society for the Relief of Aged Females, to amend Act incorporating, ...	224
Newspaper Association, Traveller, to incorporate, ...	67
Newton Street Methodist Episcopal Church, name of, changed, . .	631
Noble, Joseph, and others, authorized to fill up Flats and build a Sea- wall, ...	311
North Bank, to increase the Capital Stock of, ...	325
“ Baptist Society, in Dorchester, to confirm the organization and proceedings of, ...	267
“ Brookfield, Town of, Resolve in favor, ...	455
Northampton Fire Insurance Company, to incorporate, ...	314
“ Hospital for Insane at, making final Appropriations for, . .	104
Northern, Eastern and Southern Districts, Salaries of Attorneys, to fix, 87	
Norwich and Worcester and the Troy and Greenfield Railroad Compa- nies, respecting the Sinking Funds of, ...	253
Notes, Certificates and Bank Bills, to prevent the use of Blanks for Counterfeiting, ...	53
“ payable on demand, concerning, ...	55

O.

Oakes, William H. and Gustavus E. Haynes, Resolve in favor, . .	439
Officers and Attendants of the Legislature, for Compensation of, . .	4, 650
“ attending on the Supreme Judicial Court in Suffolk County, concerning, ...	81
“ of Corporations, Frauds in, additional to an Act to punish, . .	86
“ of the Protestant Episcopal Church, concerning, ...	86
“ Public, concerning Mileage of, ...	389
“ “ to pay over Money to County Treasurers, District- Attorneys to proceed against, in case of neglect, ...	389
“ in the several Departments to report disbursements of Money to Auditor, ...	388
“ in the State Prison, relating to, ...	406
Old Colony Bank, in Plymouth, to extend the time to pay in the increase of Capital, ...	53
“ “ Cordage Company, to incorporate, ...	246
“ “ and Fall River Railroad Company, the Middleborough and Taunton, and the Cape Cod, concerning, ...	143
Old South Church in Boston, to change the Name of, ...	269
Operatives, Preferred Claims of, against Insolvent Debtors and Corpo- rations, concerning, ...	87
Oriental Fire and Marine Insurance Company, to incorporate, . . .	239
Ornamental Wood, Lumber and Ship Timber, concerning the Survey of, 135	
Orphan Asylum, Saint Vincent's, in addition to Act incorporating, .	42
“ and Destitute Children, Church Home for, to incorporate, . .	28
Overseers of the Poor of the City of Lynn, relating to, ...	370

Overseers of the Poor of the City of Salem, relating to Board of,	Page 332
“ “ University at Cambridge, additional to Act changing the organization of the Board,	369

P.

Pacific Mills, to increase the Capital Stock of,	81
“ Print Works, to incorporate,	107
Pages, Messengers and Door-keepers, appropriation for compensation of,	631, 643
“ “ “ Resolve for payment of,	652, 655
Papers, Certain, in the Secretary's Office, concerning Preservation of,	455
Parkhurst, D. O., to extend Marine Railways,	280
Parkman, Eliza A., Harriette E., Geo. F., and others, authorized to fill up Flats and build a Sea-wall,	311
Parrott, William P., and others, to extend Wharf,	227
Parsons, Theophilus, and others, Trustees, Resolve on Petition of,	462
“ William, 2d, and others, authorized to extend their Wharf,	245
Partition of Real Estate, concerning,	100
Partnerships, Limited, relating to,	106
Passengers, to secure the Safety of, at Railroad Crossings, amendatory Act,	237
Paupers, Deceased, relating to Estates of,	21
“ State, Appropriation for Transportation of,	247
“ “ concerning,	415
“ “ relating to Transportation of,	436
Pawners' Bank, to incorporate,	326
Pearce's Wharf, in Gloucester, to extend,	227
Pemberton Manufacturing Company, to incorporate,	38
Perch and Pickerel Fishery in the District of Marshpee, relating to,	71
“ Personal Liberty Act ” amended,	151
Personal Property, Foreclosure of Mortgages of, to perpetuate Evi- dence of,	6
“ “ Mortgages of, concerning,	409
Pickled and Smoked Fish, relating to Return of,	275
Pickerel and Perch Fishery in the District of Marshpee, relating to,	71
Pine Street Congregational Society authorized to sell certain Real Estate,	125
Pipe Works, New England, to incorporate,	65
Pittsfield, Police Court in, concerning,	301
Plats and Plans of Land Grants on file in Secretary's Office, concerning preservation of,	455
Plymouth Records, Resolves in relation to,	168
“ “ “ relative to the Distribution of,	159
Point of Rocks in Westport, Jurisdiction over certain Lands on, ceded to the United States,	39
Police Court in Chicopee, additional to Act establishing,	324
“ “ in Gloucester, to establish,	98
“ “ in New Bedford, in addition to the several Acts in relation to,	80
“ “ in Pittsfield, concerning,	301
“ “ in Taunton, to establish,	62

Police Courts and Justices of the Peace, relating to, ...	Page 34
“ “ Justices of, and of the Peace, concerning Complaints before, ...	19
“ “ relating to, ...	401
“ Justices, relating to Returns of, ...	357
Poll Taxes, relating to, ...	319
Potter, Henry A., and others, to maintain and extend their Wharf, ...	19
Preacher of Election Sermon, Compensation of, established, ...	456
Precepts in Criminal Cases, concerning Returns of, by Officers, ...	399
Preferred Claims of Operatives against Insolvent Debtors and Corporations, concerning, ...	87
Prentiss, Addison, Resolve in favor of, ...	468
Prescott Fire and Marine Insurance Company, concerning Name of, ...	273
President and Fellows of Harvard College authorized to resign their trusts concerning Theological Education and the Maintenance of a Theological School, ...	152
Print Works, Pacific, to incorporate, ...	107
Printing of the Public Series of Documents, relating to, ...	231
Prison, New, in Worcester County, concerning, ...	415
“ State, Diet, Clothing and Bedding of Convicts, relating to, ...	275
“ “ Inclosure of, providing for the enlargement, ...	439
“ “ Library of, relating to, ...	438
“ “ Officers in, relating to, ...	406
“ “ Persons sentenced to, concerning, ...	409
“ “ relating to Insane Convicts in, ...	415
“ “ in relation to, ...	456
“ “ Repairs upon, relating to, ...	436
“ “ Reports of Warden and Inspectors, relating to, ...	316
Prisons, relating to the Government of, ...	134
Prisoners in the Public Institutions of the City of Boston, concerning the removal of, ...	85
Probate Court in Nantucket County, relating to, ...	320
“ Courts in Dukes County, additional to Acts concerning, ...	247
Probate and Insolvency, to change the Jurisdiction in matters of, ...	67
“ “ “ Judges of, in relation to, ...	280
“ “ “ Register for Dukes County, relating to Salary of, ...	330
“ Registers of, and of Insolvency, for Nantucket and Franklin Counties in 1858, relating to Salaries of, ...	442, 460
Promissory Notes payable on demand, concerning, ...	55
Proof in Criminal Cases, relating to, ...	320
Property, Certain, held by the State under Mortgage from Normand and Phebe B. Stiles, relating to, ...	447, 653
Property of Insolvent Debtors, relating to Sale of, ...	56
“ Personal, to perpetuate the Evidence of Foreclosure of Mortgages of, ...	6
“ of Widows and Unmarried Females, relating to exemption of, from Taxation, ...	33
Proprietors of the Boston Theatre, to incorporate, ...	59
“ of the Church of the Paternity, in Boston, to incorporate, ...	268

Proprietors of Grace Church, in Salem, to incorporate, ...	Page 266
“ of the Hadley Falls, to incorporate, ...	60
“ of Mount Auburn Cemetery, additional to Act incorporating, ...	354
“ of St. Andrews' Church, in Chelsea, to incorporate, ...	268
“ of the Union Meeting-house, in Worcester, legalizing proceedings and Records of, ...	297
Protestant Episcopal Church, concerning the Officers of, ...	86
Provisions and Produce, relating to Sale of, at stands around Faneuil Hall Market, ...	369
Proxies, concerning, ...	58
Public Amusements, in addition to Act concerning, ...	125
“ Charitable Institutions, Resolves for the appointment of a Special Joint Committee on, ...	163
“ “ and Reformatory Institutions of the Commonwealth, concerning, ...	330
“ Diversions, relating to, ...	124
“ Garden in Boston, and the Back Bay, relating to, ...	367
“ Institutions of the City of Boston, concerning the removal of Prisoners in, ...	85
“ Lands in Maine, Sales of, to enforce payment of Debts due the State on account of, ...	452
“ “ “ partial repeal of Resolve respecting, ...	655
“ “ “ Resolve for compensation of Committee on, ...	652
“ Libraries, amending Act authorizing Cities and Towns to establish, ...	232
“ Officers, concerning Mileage of, ...	389
“ “ to pay over Money to County Treasurers, District-Attorneys to proceed against, in case of neglect, ...	389
“ “ in the several Departments, to report disbursements of Money to Auditor, ...	388
“ Reports and Documents, in addition to Act relating to, ...	34
“ Schools, concerning the Branches to be taught in, ...	6
“ “ selection and employment of Teachers in, concerning, ...	248
“ Series of Documents, relating to the Printing of, ...	231
Publication and Distribution of the General Statutes, relative to, ...	656, 657, 658
Punkapog Indians, Resolve in favor of Guardian, ...	454, 456
Purchase and Sale of Spirituous and Intoxicating Liquors for Town Agents, concerning, ...	145

Q.

Quincy Fire and Marine Insurance Company, to change the Name to Chauncy Fire and Marine, ...	89
--	----

R.

Railroad Corporation, Agricultural Branch, extending time for construction of road, ...	Page 227
“ “ Amherst and Belchertown, concerning, ...	66
“ “ Boston, Barre, and Gardner, concerning, ...	272
“ “ Boston and Maine, in relation to, ...	281
“ “ Boston and New York Central, concerning, ...	16
“ “ Boston and Worcester, construction of road by, changing location and extending time, ...	223
“ “ Broadway, concerning, ...	17
“ “ Brookline, concerning, ...	235
“ “ Cape Cod, Middleborough and Taunton, and the Old Colony and Fall River, concerning, ...	143
“ “ Chelsea Beach, to incorporate, ...	22
“ “ Cheshire, concerning, ...	265
“ “ Cliftondale, to incorporate, ...	306
“ “ Dorchester and Roxbury, extending time for locating and constructing road, ...	331
“ “ Eastern, to confirm the transfer of Franchise of the Saugus Branch Railroad Company to, ...	18
“ “ Hampshire and Hampden, concerning, ...	406
“ “ Lynn and Boston, to incorporate, ...	358
“ “ Marlborough Branch, concerning, ...	134
“ “ Medford and Charlestown, concerning, ...	407
“ “ Metropolitan, concerning, ...	226
“ “ Middleborough and Taunton, Old Colony and Fall River, and the Cape Cod, concerning, ...	143
“ “ Middlesex, concerning, ...	363
“ “ Midland, extending time for construction of a portion of the road, ...	231
“ “ Midland, to incorporate, ...	42
“ “ Milford and Woonsocket, extending time for location and construction of road, &c., ...	250
“ “ Millbury and Southbridge, concerning, ...	18
“ “ Mystic River, to reduce the Capital Stock and extend the time to locate and construct road, ...	224
“ “ New York and Boston, extending time for location and construction of road, ...	18, 244
“ “ New York and Boston, Milford and Woonsocket Railroad Company authorized to lease road of, ...	250
“ “ Old Colony and Fall River, Middleborough and Taunton, and the Cape Cod, concerning, ...	143
“ “ Saugus, transfer of Franchise to Eastern Railroad Company confirmed, ...	18
“ “ Southbridge and Blackstone, extending time for construction of road, by Boston and New York Central Railroad Company, ...	16

Railroad Corporation, Springfield and Farmington Valley, extending time for location and construction of Road,	Page 230
“ “ Stoneham Branch, to incorporate,	421
“ “ Suffolk, extending time for payment of Capital Stock,	224
“ “ Troy and Greenfield, Loan of State Credit to construct the Hoosac Tunnel, additional to Act authorizing,	283
“ “ Troy and Greenfield, and the Norwich and Worcester, concerning Sinking Funds of,	253
“ “ Western, additional to Act authorizing the issuing of Bonds,	338
“ “ West Roxbury, in addition to Act incorporating,	28
“ Corporations, Annual Reports, relating to the Distribution of,	7
“ “ Annual Returns of, relating to,	417
“ “ Concerning votes of Stockholders, by Proxies,	58
“ Crossings, Horse and Steam, relating to,	293
“ “ in relation to,	292
“ “ to secure safety of Passengers at, amendatory Act,	237
“ Facilities for filling Back Bay, Resolves regarding,	165
Railroads, in addition to Act regulating the use of,	8
“ connecting, concerning delivery of Freight to,	366
Railway Company, Granite, to hold a meeting for choice of Officers,	150
“ Dorchester Extension, to incorporate,	239
Railways, Marine, of D. O. Parkhurst and J. H. Gale, to extend,	280
Rainsford Island Hospital, repeal of Act authorizing sentence of certain persons to,	294
“ “ “ respecting accounts of,	388
“ “ “ Resolve concerning,	162
“ “ “ and the State Almshouses, appropriations for expenses of,	237
Reading and Stoneham Gas Light Company, to incorporate,	243
Real Actions, concerning,	237
“ Estate, Partition of, concerning,	100
“ “ relating to Attachments of,	333
Records of Courts of Insolvency, concerning,	26
“ New Plymouth, Resolves in relation to,	168
“ “ “ Resolves relative to the Distribution of,	159
Reed, Samuel H., Resolve in favor of,	441
Reform School for Boys, State, in addition to Act establishing,	21
“ “ “ State, concerning,	325, 647
“ “ “ State, establishing the Nautical Branch of,	636
“ “ “ State, and Nautical Branch of, relating to,	637, 650
“ “ “ State, Nautical Branch of, authorizing the purchase of a Vessel for,	648
“ “ “ State, providing for the erection of certain buildings on,	653
“ “ “ State, and State Industrial School, in favor of deserving Pupils of,	456

Reformatory and Charitable Institutions of the Commonwealth, Public, concerning, ...	Page 330
Register of Probate and Insolvency for Dukes County, relating to Salary of, ...	330
Registers of Court of Insolvency for the Counties of Middlesex and Worcester, fixing the Salaries of, ...	97
“ of Probate and Registers of Insolvency for Nantucket and Franklin Counties in 1858, relating to Salaries of, ...	442, 460
Religious Society, New North, Resolve on Petition of, ...	156
Remedy for Creditors, Further, to amend Act of 1851, providing, ...	26
Removal of Actions, relating to, ...	320
“ of Prisoners in the Public Institutions of the City of Boston, concerning, ...	85
Rents, Payment of, to secure, ...	294
Repairs on the State House, certain, relating to, ...	447
Report of the Auditor, Annual, what to embrace, ...	128
“ on the Insects of New England injurious to Vegetation, Resolves for reprinting, ...	466
“ Professor Hitchcock's Geological, Resolve in relation to, ...	163
Reporters' Seats in the House of Representatives, relating to, ...	458
Reports, Annual, of Railroad Corporations, relating to the Distribution of, ...	7
“ Books and Laws, received by Cities and Towns from the Commonwealth, for the preservation of, ...	81
“ of Decisions of Supreme Judicial Court, respecting purchase and distribution of, ...	418, 641
“ and Documents, Public, in addition to Act relating to, ...	34
“ School, relating to, ...	247
“ of the Warden and Inspectors of the State Prison, relating to, ...	316
Representatives, concerning Elections of, ...	7, 290
Representatives' Hall, Appropriation for warming and ventilating, ...	657
“ “ to secure the better ventilation of, ...	449
Returns by Agents of Foreign Insurance Companies, relating to, ...	37
“ Bank, certain additional, required, ...	86
“ of Banks, Monthly, to amend the Form of, ...	372
“ of Corporations to Assessors, concerning, ...	396
“ of Elections, relating to, ...	233
“ of Insurance Companies, amending Form of, ...	310
“ of Jails and Houses of Correction, relating to, ...	301
“ by Justices of the Peace, to amend Act of 1852, concerning, ...	126
“ by Officers, of Precepts in Criminal Cases, concerning, ...	399
“ of Pickled and Smoked Fish, relating to, ...	275
“ of Police Justices, relating to, ...	357
“ of Railroad Corporations, relating to, ...	417
“ School, Schools and Committees, relating to, ...	404
Revenue, Treasurer to borrow Money in anticipation of, ...	159, 435
Revision of the Statutes, Committee on, ...	625
“ “ “ Committee on, Appropriation for compensation of, ...	643
“ “ “ Committee on, and officers, Resolve for payment of, ...	65 652

Revision of the Statutes Commissioners on, relating to, . . .	Page 468
“ “ “ Commissioners on, Resolve for payment of, . . .	652
“ “ “ concerning, ...	170, 436
“ “ “ expenses of, authorizing the issue of scrip for payment of, ...	642
Rhode Island and Massachusetts, Equity Proceedings between, concern- ing, ...	459
Rhodes, John, Resolve on Petition of, ...	166
Riggs, Fitz E., and Nathaniel, authorized to extend their Wharf, . . .	245
Rights and Liberties of the People of the Commonwealth, to amend Act to protect, ...	151
“ of Stockholders in Corporations, to protect, ...	106
Robinson, James T., providing for the pay of, ...	461, 646
Rogers Book Fund, appropriation of income, ...	356
Rollins, T. F., Resolve in favor, ...	448
Rollstone Insurance Company, to incorporate, ...	313
Rowland, L. P., Resolve in favor, ...	459
Roxbury Canal, relating to, ...	255
“ Mechanics' Institute, to incorporate, ...	234
Rumford Institute, in Waltham, to incorporate, ...	38
Russell, James, Resolve for compensation of, ...	462, 654
“ John J., to confirm certain acts done as Justice of the Peace, . .	280
Rutter, Josiah, Trustee, Resolve on Petition of, ...	450

S.

Saint Andrew's Church, in Chelsea, to incorporate Proprietors of, . . .	268
“ Vincent's Orphan Asylum, in addition to Act incorporating, . . .	42
Salary of the Adjutant-General defined, ...	127
“ of Assistant-Librarian and Clerk of the Secretary of the Board of Education, to increase, ...	250, 650
“ of Bank Commissioners, to establish, ...	311
“ of Clerk in Adjutant-General's Office, to establish, ...	322
“ of Clerks in the several Departments, respecting, ...	388
“ of County Commissioners, fixing, ...	321
“ of County Treasurers established, ...	414
“ of District-Attorney for Middle District established, ...	85
“ of District-Attorneys for the Northern, Eastern and Southern Districts, to fix, ...	87
“ of District-Attorneys, fixing, ...	371
“ of Messenger in the Secretary's Office, to establish, ...	422
“ of the Register of Probate and Insolvency for Dukes County, relating to, ...	330
“ of Registers of the Court of Insolvency for the Counties of Middlesex and Worcester, fixing, ...	97
“ of Registers of Probate and of Insolvency in 1858, for Nantucket and Franklin Counties, concerning, ...	442, 460
“ of Second Clerk in the Secretary's Office, to establish, ...	296
“ of Secretary of the Board of Agriculture, Resolve establishing, . .	449, 650

Salary of Sheriffs fixed, ...	Page 416
“ of the Superintendent of Alien Passengers, defining, ...	96
“ of Watchmen of the State House, to establish, ...	329
Sale of Property of Insolvent Debtors, relating to, ...	-56
“ of Spirituous and Intoxicating Liquors, for Town Agents, concerning, ...	145
Salem Bank, to reduce the Capital Stock of, ...	232
“ City of, in addition to Act establishing, ...	93
“ “ additional to Act establishing, ...	332
Sandwich, certain persons set off to, from the District of Marshpee, ...	312
Sargent, Ignatius, Guardian, authorized to sell certain Land of his Ward, ...	57
Saugus Branch Railroad Company, to confirm the transfer of Franchise to the Eastern Railroad Company, ...	18
Savings Bank, Natick Five Cents, to incorporate, ...	331
“ Banks, relating to Dividends by, ...	337
“ Banks and Mutual Insurance Companies, concerning Investments of, ...	37
“ Institution for, in Newburyport and its Vicinity, relating to, ...	16
“ “ Lowell, relating to, ...	233
“ “ Warren, to hold additional Real Estate, ...	339
“ “ Worcester County, fixing the time of the Annual Meeting of, ...	304
School, Attendance of Children at, additional to the several Acts concerning, ...	337
“ Attendance of Children at, in adjoining Towns, concerning, ...	269
“ Books and changes in the same, relating to, ...	271
“ “ for the Marshpee Indians, relating to, ...	441
“ Committee of Fall River, concerning, ...	324
“ Committees, Election of, additional to Act providing for, ...	266, 418
“ Committees, establishing Pay of Members, ...	275
“ District System, to abolish, ...	413
“ Districts, concerning, ...	107, 300
“ Fund, to increase, out of proceeds of the Sales of Back Bay Lands, ...	314
“ “ making Appropriations from the income of, ...	354
“ for Idiotic and Feeble-Minded Youth, Massachusetts, relative to completing a Building for, ...	447
“ for Idiotic and Feeble-Minded Youth, Massachusetts, Resolve in favor, ...	157, 440
“ Reports, relating to, ...	247
“ State Industrial, for Girls, additional to Act establishing, ...	371
“ “ “ concerning the erection of an additional Building for, ...	441
“ “ “ concerning, ...	84
“ “ “ Resolve in relation to, ...	162
“ State Reform, for Boys, in addition to Act establishing, ...	21
“ “ “ “ “ concerning, ...	325, 647

School, State Reform, for Boys, Nautical Branch of, establishing,	Page 636
“ “ “ “ “ “ authorizing purchase	
“ “ “ “ “ “ of vessel for,	648
“ “ “ “ “ “ relating to,	637, 650
“ “ “ “ “ “ providing for erection of certain build- ings for,	653
“ “ “ “ “ “ and State Industrial, deserving pupils of, Resolve in favor,	456
“ Theological, Theological Education, President and Fellows of Harvard College authorized to resign their trusts, con- cerning,	152
Schools, Public, concerning the Branches to be taught in,	6
“ “ concerning Selection and Employment of Teachers in,	248
“ relating to,	418
“ School Committees and School Returns, relating to,	404
Scientific Survey of Boston Harbor, Resolves in relation to,	164
Scott <i>versus</i> Sandford—Decision of Supreme Court of United States in case of, Resolves in relation to,	170
Scrip, authorizing issue of, for payment of expenses of the Revision of the Statutes,	642
Scrip, certain cancelled, Resolve providing for the Destruction of,	158
Sea-Wall, Massachusetts General Hospital and others, authorized to build,	311
Sea-Weed and Kelp, to define the right to take, between high and low- water mark,	409
Second Clerk in Secretary's Office, Salary of, to establish,	296
Secretary of the Board of Agriculture, establishing Salary of,	449, 650
“ “ “ of Education, to amend Act relating to the Office of,	50
Secretary's Office, Second Clerk in, to establish the Salary of,	296
“ “ Messenger in, to establish the Salary of,	422
Seining of Menhaden in the Rivers of the Commonwealth, regulating,	39
Sentences to the State Prison, concerning,	409
Sergeant-at-Arms, House in Hancock Street, for payment of certain expenses of sale,	646
“ “ Resolves providing for sale of house recently occu- pied by, and granting additional allowance to,	467, 468
“ “ Resolved for payment of, for extra services,	655
Sewers and Drains in the City of Cambridge, concerning,	300
Shawmut Avenue Baptist Society, in Boston, to incorporate,	640
Sheep, for the better preservation, from the ravages of Dogs,	102
Sheriff of Suffolk County, Resolve in favor, for serving Executive War- rant,	463
Sheriffs, relating to Compensation and Duties of,	416
Ship-owners and Mariners, to protect from Imposition, additional Act,	401
Ship Timber, Lumber and Ornamental Wood, concerning the Survey of,	135
Ships, Taxation of, relating to,	281
Shores and Flats belonging to the Commonwealth, concerning,	469

Sidewalks in the City of Charlestown, to regulate, ...	Page 322
Silsbee, Nathaniel, Trustee, and Mary Ann C. D., Resolve on Petition of, ...	455
Sinking Fund, Western Railroad, respecting, ...	78, 131
Sinking Funds of the Troy and Greenfield and the Norwich and Worcester Railroad Companies, respecting, ...	253
Smith, Benjamin, Resolve on Petition of, ...	448
“ Knight and Tappan, Resolve in favor, ...	458
Smoked and Pickled Fish, relating to a Return of, ...	275
Societies, Agricultural, relating to, ...	398
Society, First Congregational, in Leominster, in addition to Act incorporating, ...	257
“ Highland Agricultural, to incorporate, ...	310
“ Martha's Vineyard Agricultural, to incorporate, ...	235
“ Massachusetts Medical, in relation to, ...	267
“ New England Moral Reform, Resolve in aid of, ...	467
“ New North Religious, Resolve on Petition of, ...	156
“ North Baptist, in Dorchester, to confirm the organization and proceedings of, ...	267
“ Old South, in Boston, Name changed from Old South Church, ...	269
“ Pine Street Congregational, authorized to sell certain Real Estate, ...	125
“ for Relief of Aged Females, Newburyport, to amend Act incorporating, ...	224
“ Shawmut Avenue Baptist, in Boston, to incorporate, ...	640
Somes, John, to extend his Wharf, ...	64
South Boston, Banks in, to make Monthly Returns, ...	139
“ Danvers Mutual Insurance Company, concerning, ...	25
Southbridge and Blackstone Railroad, extending time for construction of, ...	16, 231
Southern, Northern and Eastern Districts, Salaries of Attorneys, to fix, ...	87
Special Administrators, additional to the several Acts concerning, ...	305
“ “ relating to, ...	89
“ Joint Committee on Public Charitable Institutions, Resolves for the appointment of, ...	163
“ Laws, providing for publication of, ...	463
“ Messages, ...	185, 559, 659
Specie in the Commonwealth, to increase the amount of, ...	54
“ “ “ “ “ “ Amendatory Act, ...	139
Specific Performance of Written Contracts, relative to, ...	236
Spirituuous and Intoxicating Liquors, concerning Purchase and Sale of, for Town Agents, ...	145
Sprague, Charles, and others, Trustees, Resolve on Petition of, ...	438
Springfield and Farmington Valley Railroad, extending time for location and construction of, ...	230
Springfield Fire and Marine Insurance Company, to increase the Capital Stock of, ...	227
Springfield Fire and Marine Insurance Company, to increase its Investment in Real Estate, ...	6

Staples, Artimun, Resolve in favor, ...	Page 458
State, certain Accounts against, to be vouched under oath, ...	389
State Almshouse at Monson, relating to preservation of, from fire, ...	647
State Almshouses, for the better protection, from Fire, ...	458
“ “ Inmates of, to receive the ministrations of Clergymen of their own religious faith, ...	161
“ “ Superintendents may contract for the employment of inmates, ...	142
“ “ and Rainsford Island Hospital, appropriations for expenses of, ...	237
“ Board of Agriculture, Resolve in favor of, ...	158
“ Credit, Loan of, for construction of Hoosac Tunnel, additional Act, ...	283
“ Debts due to, on account of Sales of Public Lands in Maine, to enforce Payment of, ...	452
“ Encampment, transportation of certain Companies to, Resolve for payment of expenses, ...	651
“ House, relating to certain repairs upon, ...	447
“ “ Watchmen and Fireman, for the appointment of, ...	131
“ “ Watchmen of, to establish the Salary, ...	329
“ Industrial School for Girls, additional to Act establishing, ...	371
“ “ “ “ concerning erection of an additional Building for, ...	441
“ “ “ “ concerning, ...	84
“ “ “ “ Resolve in relation to, ...	162
“ Lands or Flats belonging to, relating to conveyances of, ...	391
“ Library, Resolve relating to, ...	155, 653
“ Lunatic Hospital at Northampton, in aid of, ...	450
“ “ “ “ concerning purchase of Books and Engravings for, ...	441
“ “ Hospitals, concerning, ...	277
“ “ “ relating to, ...	16
“ “ “ relating to persons committed to, not having a known settlement in the State, ...	133
State Map, concerning, ...	451
State Paupers, concerning, ...	415
“ “ Transportation of, appropriation for, ...	247
“ “ “ relating to, ...	436
State Prison, Diet, Clothing, and Bedding of Convicts, relating to, ...	275
“ “ Inclosure of, providing for the enlargement, ...	439
“ “ Insane Convicts in, relating to, ...	415
“ “ Library of, relating to, ...	438
“ “ Officers in, relating to, ...	406
“ “ Persons Sentenced to, concerning, ...	409
“ “ in relation to, ...	456
“ “ removal of Officers using Intoxicating Liquors, providing for, ...	134
“ “ Repairs in, relating to, ...	436
“ “ Reports of Warden and Inspectors, relating to, ...	316

State, certain Property held by, under Mortgage from Normand and Phebe B. Stiles, relating to, ...	Page 447, 653
“ Reform School for Boys, in addition to Act establishing, ...	21
“ “ “ “ concerning, ...	325, 647
“ “ “ “ establishing the Nautical Branch of, ...	636
“ “ “ “ Nautical Branch of, authorizing purchase of Vessel for, ...	648
“ “ “ “ “ “ “ relating to, ...	637, 650
“ “ “ “ providing for erection of certain buildings for, ...	653
“ “ “ and State Industrial School, deserving Pupils of, Resolve in favor, ...	456
State, Shores and Flats belonging to, concerning, ...	469
State Tax, to apportion and assess, ...	109, 372
Statue of Horace Mann, Resolve in relation to, ...	649
Statue of Webster, authorizing the erection, within the State House grounds, ...	465
“ “ inauguration of, Resolve for payment of certain expenses, ...	654
Statute Laws, concerning the Revision of, ...	170, 436
“ “ Commissioners for Revision of, relating to, ...	468
“ “ “ “ “ “ “ Resolve for payment of, ...	652
“ “ Committee on Revision of, ...	625
“ “ “ “ Appropriation for compensation of, ...	643
“ “ “ “ and Officers, Resolve for payment of, ...	650, 652
“ “ relative to appending a Glossary to, ...	656
“ “ relative to publication and distribution of, ...	656, 657, 658
“ “ Revision of, authorizing issue of Scrip for payment of expenses, ...	642
Steam Boilers, to regulate the use of, ...	417
Steamship Company, Boston and Southern, to incorporate, ...	362
“ “ Union, to incorporate, ...	336
Stiles, Normand and Phebe B., relative to certain property held by the State, under Mortgage from, ...	447, 653
Stock, Issues of, by Corporations, concerning, ...	141, 276
Stockholders in Corporations, to protect the Rights of, ...	106
Stoneham Branch Railroad Company, to incorporate, ...	421
Stowell, Luther, Resolve in favor, ...	650
Strickland, Lemuel K., to confirm certain acts of, as Justice of the Peace, ...	630
Sudbury, Town of, concerning Flowage of Lands in, ...	449
Suffolk County, Justices' Court, extending Jurisdiction of, ...	338
“ Fire Insurance Company, to incorporate, ...	242
“ Railroad Company, extending time for payment of Capital Stock, ...	224
Sunderland, Town of, Resolve on Petition of Selectmen, ...	465
Superintendent of Alien Passengers, defining the Salary of, ...	96
Superior Court, to establish, ...	339

Superior Court and Supreme Judicial, relating to Terms of, . . .	Page 629
Supervisors of Adams Temple and School Fund, additional to Act incorporating, ...	244
Suppression of Counterfeiting Bank Bills and Coin, granting aid for, .	165
Supreme Court of the United States, Decision of, in case of <i>Scott versus</i>	
Sandford, Resolves in relation to, ...	170
" Judicial Court, concerning, ...	635
" " " in County of Suffolk, concerning Officers	
attending on, ...	81
" " " in the County of Worcester, concerning	
terms of, ...	629
" " " Reports, concerning purchase and distribution	
of, ...	418, 641
" " and Superior Courts, Justices of, ...	606
" " " " " relating to terms of, ...	629
Survey of Boston Harbor, Scientific, Resolves in relation to, . . .	164
" of Lumber, Ornamental Wood, and Ship Timber, concerning, .	135
Surveyor-General of Lumber, authorizing appointment of, ...	392
" " " " " " additional act, ...	629
Surveys made in laying out Highways, providing for registration of, .	296

T.

Taunton, Police Court in, to establish, ...	62
Tax, State, to apportion and assess, ...	109, 372
Taxation, to equalize, ...	288
" of Minors, concerning, ...	416
" of the Property of Widows and Unmarried Females, relating	
to exemption from, ...	33
" and Returns of Corporations to Assessors, concerning, . .	396
" of Ships, relating to, ...	281
Taxes, Assessment and Collection of, relating to, ...	61
" Assessment of, in the Town of Newbury, relating to, . . .	78
" Collectors of, concerning, ...	325
" for the several Counties, Resolve granting, ...	167, 464
" Poll, relating to, ...	319
Teachers' Association, Massachusetts, in aid of, ...	437
Teachers in Public Schools, concerning selection and employment of, .	248
Telegraph Companies and Electric Telegraphing, additional to Act con-	
cerning, ...	417
Temple and School Fund, Adams, additional to Act incorporating	
Supervisors of, ...	244
Terrapin, regulating the taking of, in the waters of the Commonwealth,	51
Territorial limits of the State, declaring, ...	640
Tewksbury, William, Resolve in favor, ...	461
Theatre, Boston, Proprietors of, to incorporate, ...	59
Theological Education and Maintenance of a Theological School, Presi-	
dent and Fellows of Harvard College authorized to resign their	
trusts concerning, ...	152

Thurber Medical Association, to incorporate, ...	Page 228
Timber, Ship, Lumber and Ornamental Wood, concerning the Survey of, ...	135
Todd Normal School Fund, appropriation of income, ...	356
Town Agents, concerning Purchase and Sale of Spirituous Liquors for, ...	145
" of Belmont incorporated, ...	277
" Line between Holliston and Milford, to alter, ...	312
" Lines between Marion and Wareham, establishing, ...	238
" " " " " Resolves in relation to, ...	156
" River in Quincy, Samuel and Charles H. Edwards, to widen, ...	233
Towns and Cities, Books, Reports and Laws received by, from the Commonwealth, for the preservation of, ...	81
" " to establish Public Libraries, to amend Act authorizing, ...	232
Trade Marks, Infringement of, to prevent, ...	400
Transfer of the Franchise of the Saugus Branch Railroad Company to the Eastern Railroad Company, to confirm, ...	18
Transportation of State Paupers, appropriation for, ...	247
" " " relating to, ...	436
Travel of Members of the Legislature, concerning, ...	654
Traveller Newspaper Association, to incorporate, ...	67
Treasurer authorized to furnish the Town of New Salem with standard Weights and Measures, ...	463
" " to receive certain Moneys from the United States Treasury, ...	238, 319
" " to borrow Money in anticipation of the Revenue, ...	159, 435
Treasurers, County, to notify District-Attorneys, upon neglect of Public Officers to pay over Money, ...	389
" " relating to, ...	414
Trees on Highways, for further protection of, ...	417
Tremere, John B., and others, Trustees, Resolve on Petition of, ...	438
Tremont Improvement Company, additional to Act incorporating, ...	244
Trial by Jury before Justices of the Peace, in certain cases, to amend Act providing for, ...	55
" Justices, Governor to designate and commission, ...	101
" " Title established, ...	338
Trout Fishery in Marshpee River, relating to, ...	276
Troy and Greenfield and the Norwich and Worcester Railroad Companies, respecting Sinking Funds of, ...	253
" and Greenfield Railroad Company, Loan of State Credit to construct the Hoosac Tunnel, additional Act, ...	283
" Indians, respecting certain appropriations for, ...	469
" " Resolve in favor of, ...	163
Trust Funds, Certain, Appropriations from income of, ...	72, 354
Trustee process, relating to attachment of Dividend in hands of Assignee, ...	31
Trustees of the Museum of Comparative Zoology, to incorporate, ...	365
" of the Newton Street Meth. Epis. Church, name changed, ...	631
" of State Lunatic Hospitals, relating to Annual Meetings of, ...	16

Tufts College, granting aid to, out of proceeds of Sales of Back Bay Lands, ...	Page 314
Turnpike, Cambridge and Watertown, part of, established as a Highway, ...	317
“ “ “ “ Town of Brighton to pay certain persons for tending Draw Bridges, ...	371
Turnpike Corporation, Brush Hill, in addition to Act concerning, ...	252

U.

Union Meeting-house in Worcester, legalizing proceedings and Records of the Proprietors, ...	297
“ Steamship Company, to incorporate, ...	336
United States, Massachusetts Claim upon, authorizing appointment of Agent to prosecute, ...	435, 469
“ “ “ “ “ providing for payment of Prosecuting Agent, ...	444
“ “ “ “ “ relating to, ...	435
“ “ Jurisdiction over certain Lands in Boston ceded to, for a Court House, ...	127
“ “ Jurisdiction over certain Lands in Cohasset ceded to, for Light-keeper's house, &c., ...	33
“ “ Jurisdiction over certain Lands on Point of Rocks in Westport, ceded to, ...	39
“ “ Supreme Court of, Resolves in relation to decision of, in case of Scott <i>versus</i> Sandford, ...	170
“ “ surrender of certain Military Stores to, concerning, ...	459
“ “ Treasury, Treasurer to receive certain Moneys from, ...	238, 319
Universalist Convention, Massachusetts, to incorporate, ...	251
University at Cambridge, Board of Overseers, additional to Act changing the Organization of, ...	369
Unmarried Females and Widows, Exemption of the Property of from Taxation, relating to, ...	33

V.

Veazie, William F., Claim of, Auditor to hear and examine, ...	77
Vegetables and Fruit, concerning the Measurement of, ...	53
Ventilation of the Representatives' Hall, concerning, ...	449
“ and Warming of the Representatives' Hall, appropriation for, ...	657
Vessel for Nautical Branch of the State Reform School, authorizing purchase of, ...	648

W.

Walker, Benjamin, Resolve in favor, ...	Page 460
Waltham Improvement Company, to amend the Charter of, ...	228
Ward Mills, to incorporate, ...	91
Warden and Inspectors of State Prison, relating to Reports of, ...	316
Wards and Guardians, concerning, ...	87
Wareham and Marion, Town Lines between, relating to, ...	156, 238
Warren and Charles River Bridges, concerning Agent and Draw- tenders of, ...	334
“ “ “ “ “ Appropriations from income of, ...	356
“ “ “ “ “ further Appropriations for repairs and maintenance, ...	641
“ “ “ “ “ relating to, ...	234, 651
“ “ “ “ “ relating to repairs upon, ...	652
“ “ “ “ “ Tolls, when to cease, ...	76
“ Institution for Savings, to hold additional Real Estate, ...	339
“ Museum of Natural History, to incorporate, ...	22
Washington Insurance Company, to increase the Capital Stock of, ...	270
“ Mills, to incorporate, ...	89
Washingtonian Home for Inebriates, to incorporate, ...	292
“ “ “ “ “ granting aid to, ...	468
“ “ “ “ “ Resolve in favor of, ...	451
Watch Company, American, Name of Waltham Improvement Company changed to, ...	228
Watchmen of the State House, for compensation of, for services as Messengers, ...	655
Watchmen of the State House, establishing Pay of, ...	329
“ and Fireman to the State House, for the appointment of, ...	131
Water, for supplying the City of Boston with, additional Acts, ...	64, 390
Water-Power Company, Holyoke, to incorporate, ...	225
Water-Rights, relating to the Division of, ...	294
Wayland, Town of, concerning Flowage of lands in, ...	449
Weapons, Dangerous, relative to the carrying of, ...	357
Webster, Daniel, Statue of, authorizing the erection, within the State House grounds, ...	465
“ “ “ “ for payment of certain expenses attending the Inauguration of, ...	654
Webster Insurance Company to incorporate, ...	245
Wesleyan Academy at Wilbraham, granting aid to, out of proceeds of Sales of Back Bay Lands, ...	314
West Roxbury Railroad Company, in addition to Act incorporating, ...	28
West Springfield, Town of, Resolve in favor, ...	444
Western Railroad Company, authorized to issue Bonds, additional Act, ...	338
Western Railroad Sinking Fund, respecting, ...	78, 131
Westport, Jurisdiction over certain Lands on Point of Rocks in, ceded to the United States, ...	39
Wharf, Battery, in Gloucester, to extend, ...	229



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